

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: NATIONAL PRESCRIPTION MDL No. 2804
OPIATE LITIGATION Case No. 17-md-2804

This document relates to: Judge Dan
Aaron Polster

The County of Cuyahoga v. Purdue
Pharma, L.P., et al.
Case No. 17-OP-45005
City of Cleveland, Ohio vs. Purdue
Pharma, L.P., et al.
Case No. 18-OP-45132
The County of Summit, Ohio,
et al. v. Purdue Pharma, L.P.,
et al.
Case No. 18-OP-45090

Videotaped Deposition of Matthew Strait
Washington, D.C.
May 31, 2019
9:05 a.m.

Reported by: Bonnie L. Russo
Job No. 3404564

1 Videotaped Deposition of Matthew Strait held
2 at:

3
4
5 Williams & Connolly, LLP
6 725 12th Street, N.W.
7 Washington, D.C.
8
9

10 Pursuant to Notice, when were present on behalf
11 of the respective parties:
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MCKMDL00538072-076

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CAH_MDL2804_02423059-064

1 P R O C E E D I N G S

2

3 THE VIDEOGRAPHER: Good morning.

4 We are going on the record at 9:05

5 a.m. on May 31st, 2019.

6 Please note that the microphones are

7 sensitive and may pick up whispering, private

8 conversations and cellular interference.

9 Please turn off all cell phones or place them

10 away from the microphones as they can interfere

11 with the deposition audio. Audio and video

12 recording will continue to take place unless

13 all parties agree to go off the record.

14 This is Media Unit 1 of the video

15 recorded deposition of Matthew Strait, taken by

16 counsel for defendant the matter of In Re:

17 National Prescription Opiate, filed in the

18 United States District Court for the Northern

19 District of Ohio, Eastern Division, Case No.

20 17-MD-2804.

21 This deposition is being held at

22 Williams & Connolly, located at 725 12th

23 Street, Northwest, Washington, D.C.

24 My name is Daniel Russo from the

25 firm Veritext Legal Solutions, and I'm your

1 videographer today. The court reporter is
2 Bonnie Russo from the firm Veritext Legal
3 Solutions.

4 Counsel and all present in the room
5 and everyone attending remotely will now state
6 their appearances and affiliations for the
7 record, please.

8 MR. MASTERS: Brad Masters, Williams
9 & Connolly, for Cardinal Health.

10 MS. WICHT: Jennifer Wicht, Williams
11 & Connolly, for Cardinal Health.

12 MR. RUIZ: Anthony Ruiz, Zuckerman
13 Spaeder, on behalf of CVS Indiana, LLC, and CVS
14 Rx Services, Inc.

15 MS. MONAGHAN: Megan Monaghan from
16 Covington & Burling on behalf of McKesson.

17 MS. MACKAY: Melanie Mackay from
18 Dechert for Purdue.

19 MR. PIGGINS: Michael Piggins from
20 Weitz & Luxenberg on behalf of the plaintiffs.

21 MS. ELLIS: Tiffany Ellis, Weitz &
22 Luxenberg, on behalf of the plaintiffs.

23 MR. MASTERS: Yeah. Go ahead.

24 MR. RZODKIEWICZ: John Rzodkiewicz,
25 DOJ.

1 MR. FINKELSTEIN: David Finkelstein,
2 Department of Justice.

3 MS. SPEARS: Mariama Spears, Drug
4 Enforcement Administration.

5 MS. BACCHUS: Renee Bacchus, United
6 States Attorney's Office for the Northern
7 District of Ohio on behalf of DOJ and DEA.

8 MS. WAITES: Natalie Waites on
9 behalf of DOJ and DEA.

10 MR. STRAIT: And Matthew Strait,
11 DEA.

12 THE VIDEOGRAPHER: Can everyone
13 remotely please state their name.

14 MS. MATSOUKAS: Yes. This is
15 Kathleen Matsoukas from Barnes & Thornburg on
16 behalf of H.D. Smith.

17 MR. BARNES: Robert Barnes, Marc &
18 -- Marcus & Shapira on behalf of HBC Service
19 Company.

20 MR. BEISELL: Patrick Beisell from
21 Jones Day on behalf of Wal-Mart.

22 MR. SWAINE: Jeff Swaine --

23 (Telephone audio malfunction.)

24 MR. HIMMEL: Brian Himmel,
25 AmerisourceBergen Drug Corporation.

1 MR. SINDELAR: Jeff Sindelar from
2 Tucker Ellis on behalf of Johnson & Johnson and
3 Janssen Pharmaceuticals.

4 MR. WALLACE: Matt Wallace of
5 O'Melveny & Myers on behalf of Johnson &
6 Johnson and Janssen.

7 MR. LAVELLE: John Lavelle, on
8 behalf of Rite Aid of Maryland.

9 MR. STEPHENS: Neil Stephens for
10 Jones Day for Wal-Mart.

11 MS. MATIC: Kristina Matic, Foley &
12 Lardner, for Anda.

13 THE VIDEOGRAPHER: Will the court
14 reporter please swear in the witness.

15
16 MATTHEW STRAIT,
17 being first duly sworn, to tell the
18 truth, the whole truth and nothing but the
19 truth, testified as follows:

20
21 THE VIDEOGRAPHER: You may proceed,
22 Counsel.

23 EXAMINATION BY COUNSEL FOR CARDINAL HEALTH

24 BY MR. MASTERS:

25 Q. Good morning, Mr. Strait.

1 Thank you for being here today.

2 A. Good morning.

3 Q. Have you ever been deposed before?

4 A. No.

5 Q. No. This is your first time.

6 A. Yes.

7 Q. So just real quick, some ground
8 rules. We'll try not the talk over each other
9 so the court reporter doesn't have too hard of
10 a time.

11 And if you have any questions about
12 my questions, feel free to ask me.

13 If -- if counsel objects, you should
14 still answer the question unless -- unless
15 you're instructed not to. Oftentimes these
16 objections are just for the record later.

17 Any question before we proceed?

18 A. No.

19 Q. Okay. How long have you been at the
20 Drug Enforcement Administration?

21 A. In August it will be 20 years.

22 MR. MASTERS: I'm introducing what
23 will be marked as -- as Exhibit 1.

24 (Deposition Exhibit 1 was marked for
25 identification.)

1 BY MR. MASTERS:

2 Q. Have you seen this document before?

3 A. I have.

4 Q. Do you recognize it as the notice of
5 deposition for today's deposition?

6 A. Yes.

7 MR. MASTERS: One more housekeeping
8 document before we get underway.

9 I'm showing you what has been marked
10 as Exhibit 2.

11 (Deposition Exhibit 2 was marked for
12 identification.)

13 BY MR. MASTERS:

14 Q. Can you identify this document?

15 A. This was my authorization to
16 participate in the capacity in which I would be
17 authorized to participate today.

18 Q. And have you seen this document
19 before?

20 A. I have.

21 Q. Okay. I'd like to direct your
22 attention to Page 8, the section titled Topic
23 21, referring to your communications relating
24 to -- relating to and efforts to comply with
25 the reports and recommendations contained in

1 the following GAO reports.

2 Do you see that?

3 A. Yes.

4 Q. When it says "your," you understand
5 that that is referring to the Drug Enforcement
6 Administration, correct?

7 A. Correct.

8 Q. And that today testifying here, you
9 are testifying on behalf of the Drug
10 Enforcement Administration.

11 A. Correct.

12 Q. So when we -- so when I refer to
13 "you" in this deposition, unless I refer
14 specifically to you, I'm referring to the Drug
15 Enforcement Administration, correct?

16 A. Yes.

17 Q. Do you understand that the subject
18 matter on which you are authorized to be -- to
19 -- to testify today is -- is included here in
20 this section under Topic 21?

21 A. Yes.

22 Q. What is your current position at the
23 Drug Enforcement Administration?

24 A. I am the senior policy advisor to
25 the assistant administrator for the diversion

1 control division.

2 Q. And what is your responsibility as
3 the senior policy advisor?

4 A. I report directly to the assistant
5 administrator and advise him on policy matters
6 that are relevant to the diversion control
7 program, the mission of the program.

8 Q. Okay. Prior to your current role as
9 senior policy advisor, what was your role at
10 Drug Enforcement Administration?

11 A. I've had several roles over the last
12 20 years. And I can get into as much or as
13 little detail as -- as you like about those.

14 Q. Let's -- let's take the last let's
15 say five years.

16 A. Okay. I've been back in the
17 diversion control program since June of 2017
18 serving in the capacity I'm in now.

19 Prior to that, for two and a half
20 years prior to, I was the section chief for
21 DEA's congressional affairs section and
22 therefore had the liaison responsibilities for
23 the agency with congress.

24 Q. When you say "liaison
25 responsibilities," can you give me a little

1 more detail about what that means?

2 A. Sure. So in -- in congress's role
3 of doing oversight over the federal government,
4 including DEA, my roles would have been
5 prepping witnesses for congressional testimony,
6 providing formal or informal views on
7 legislative proposals that affected DEA, and
8 also working with the interagency on issues of
9 interest in which other agencies might be
10 testifying or working with congress on matters
11 that impact DEA.

12 Q. The Government Accountability Office
13 is a legislative agency, correct?

14 A. Yes.

15 Q. So in your role as liaison between
16 DEA and congress, did your responsibilities
17 intersect with the Government Accountability
18 Office?

19 A. Yes.

20 Q. Were -- would you have been aware of
21 investigations and reports of the Government
22 Accountability Office into the Drug Enforcement
23 Administration?

24 A. Yes.

25 Q. And what was the nature of your role

1 as -- as a liaison in that intersection between
2 the Drug Enforcement Administration and the
3 GAO?

4 A. When these GAO investigations were
5 requested, they were requested by members of
6 congress. And I would not have had a role in
7 the day-to-day interactions with GAO.

8 But following the release of those
9 reports, they were the subject of congressional
10 hearings that -- that ensued shortly
11 thereafter. And so that would have been my
12 role, is -- is prepping witnesses for that
13 testimony.

14 Q. Can you explain for the jury what
15 the Government Accountability Office is?

16 MS. WAITES: Objection. Scope.

17 And I'll just say, when I say
18 "scope," just to be shorthand, I'm saying it's
19 outside the scope of the 30(b)(6) designation.

20 MR. MASTERS: Sure.

21 THE WITNESS: The GAO largely is
22 charged with assisting congress in their
23 oversight role. So in my times -- in many
24 instances, from -- from my experience, GAO
25 reports or requests come from members of

1 congress as they try to understand better
2 things that they hear from the general public.

3 BY MR. MASTERS:

4 Q. In your experience, how does the GAO
5 go about its -- it's role in -- in oversight?

6 A. I believe they're very methodical.
7 I think they do really good work.

8 Q. And -- and what kind of work do they
9 -- so you mentioned earlier that members of
10 congress may request the GAO to investigate
11 something.

12 When you say "they're very
13 methodical," what do you -- what do you mean by
14 that?

15 A. Just the way they go about doing
16 their business. The work that they do, they
17 generally come in, have a kick-off meeting with
18 the -- the subject of their investigation, the
19 agency. They ask a number of very deliberative
20 questions. They seek responses in -- in
21 certain time frames. And there's oftentimes a
22 very persistent exchange of information
23 throughout their audit period.

24 They're very good at controlling
25 deadlines and helping congress get their

1 responses in -- in a timely fashion.

2 Q. When the GAO investigates let's say
3 the Drug Enforcement Administration and issues
4 recommendations, does the -- does -- does the
5 DEA take those recommendations seriously?

6 A. Absolutely. Yes.

7 Q. Does -- does the DEA have an
8 obligation to respond to particular
9 recommendations that the GAO makes?

10 A. Yes.

11 Q. Are there internal processes for
12 addressing GAO recommendations?

13 A. Absolutely. Yes.

14 Q. As a matter of course -- well, let
15 me ask it this way: What is typical -- what
16 are the kinds of internal processes for
17 responding to GAO recommendations?

18 A. Well, DEA has a whole GAO audit
19 liaison team whose sole function is to ensure
20 that GAO is getting, one, responses to their
21 questions during the audit time frame when a --
22 when a report is under consideration; but then
23 also, on follow-up, once recommendations are
24 made, our audit liaison team is consistently
25 working with the program office to what we call

1 close out a recommendation.

2 Q. And what does it mean to close out a
3 recommendation?

4 A. It means to address to the
5 satisfaction of GAO the recommendations that
6 they've made.

7 Q. Now, typically when the -- when the
8 GAO investigates an issue, they will give the
9 agency an opportunity to respond before
10 releasing their report; is that correct?

11 A. That's correct.

12 MS. WAITES: Objection. Vague.

13 Just make sure I...

14 BY MR. MASTERS:

15 Q. In your experience, that is -- that
16 is true of the GAO's handling of investigations
17 relating to the DEA, correct?

18 A. Yes.

19 Q. And then the GAO will -- strike
20 that.

21 The -- the DEA will then have an
22 opportunity to respond, right?

23 A. Yes.

24 Q. And the GAO, if there is a response,
25 will respond to the response in their report,

1 right?

2 A. GAO takes DEA's response in
3 consideration and may or may not make changes
4 to their final report. But they generally do
5 comment in their report as to their agreement
6 or disagreement with -- with comments made by
7 the -- by the DEA.

8 (Deposition Exhibit 3 was marked for
9 identification.)

10 BY MR. MASTERS:

11 Q. I'm handing you what has been --
12 hold on a second -- what has been marked as
13 Exhibit 3.

14 Can you identify this document?

15 A. This is the GAO's report known in
16 the -- known by GAO as GAO 15471.

17 Q. And you -- you have seen this report
18 before, correct?

19 A. Correct.

20 Q. When did you first become aware of
21 this report?

22 A. Back in 2015.

23 Q. That was when the report was issued?

24 A. Yes.

25 Q. Were you aware of the -- of the

1 investigation prior to the issuance of this
2 report?

3 A. In my capacity in our congressional
4 affairs office, I was aware that the -- the
5 study was being undertaken. But I was not
6 aware of when it was going to culminate, when
7 it was going to be issued.

8 MR. MASTERS: Okay. Great.

9 Can we go off the record real quick
10 to address this ELMO issue.

11 THE VIDEOGRAPHER: We are going off
12 the record.

13 The time is 9:21.

14 (A short recess was taken.)

15 THE VIDEOGRAPHER: We are going back
16 on the record.

17 The time is 9:24.

18 You may proceed, Counsel.

19 BY MR. MASTERS:

20 Q. Turning to Page 1 of the report --
21 or I should say the -- the very first page, the
22 summary, the first full paragraph, the second
23 sentence from the bottom states: "Federal
24 internal control standards call for adequate
25 communication with stakeholders."

1 Do you see that?

2 A. Second from the bottom. I -- of the
3 first full paragraph?

4 Q. Yes.

5 A. "Federal" -- yes.

6 Q. Does the DEA agree with that
7 statement?

8 A. Yes.

9 Q. In this study the GAO was asked by
10 members of congress to review the adequacy of
11 DEA's communications and guidance with
12 distributors and pharmacies about their
13 regulatory responsibilities, correct?

14 A. And practitioners.

15 Q. Sorry. And practitioners.

16 So they were asked to look at the
17 communications and guidance between DEA and
18 distributors, pharmacies and practitioners?

19 A. Correct.

20 Q. And to conduct its investigation
21 into the communication and guidance with these
22 registrants, what did the GAO do?

23 A. They did a --

24 MS. WAITES: Objection. Vague.

25 THE WITNESS: They did a survey.

1 They conducted a survey for each of the
2 registrant populations.

3 BY MR. MASTERS:

4 Q. Was that a nationally representative
5 survey?

6 A. They called it generalizable. They
7 interviewed -- they sent the survey out to 200
8 distributors, 300 pharmacies and 400
9 practitioners.

10 But for a point of consideration,
11 300 pharmacies, we have about 71,000 pharmacies
12 presently. With our practitioner community, we
13 have 1.7 million prescribers at present. So
14 they -- they did 400. And they -- they used a
15 statistical model to -- to make it
16 generalizable to the public.

17 Q. And what about with distributors;
18 how many distributors are there?

19 A. 200 of -- presently -- in the report
20 they refer to 9 -- over 900, I think 945. But
21 on the controlled substance side, we have 750.

22 Q. Okay. And same -- same with
23 distributors as -- as with pharmacies and --
24 and practitioners; they used a statistical
25 model to make it generalizable with respect to

1 distributors, right?

2 A. That's what's in their report, yes.

3 Q. They also interviewed 26 national
4 associations and other nonprofit organizations,
5 correct?

6 A. Correct.

7 Q. And they interviewed 16 government
8 agencies from four different states?

9 A. That is correct.

10 Q. And in addition to the web-based
11 surveys of all those registrants you mentioned,
12 the national associations and the government
13 agencies, the GAO also reached out to DEA for
14 its perspectives on communications and guidance
15 to registrants, correct?

16 A. That is correct.

17 Q. I'd like to direct your attention to
18 Page 6 of the report, the full paragraph
19 beginning with "We also obtained."

20 It -- it states: "We also obtained
21 documents from and interviewed DEA Office of
22 Diversion Control officials who have oversight
23 responsibility for DEA registrants and are
24 engaged in addressing prescription drug abuse
25 and diversion issues to learn about how DEA

1 interacts with its registrants and other
2 nonfederal stakeholders and to obtain DEA's
3 perspectives on information from our survey
4 results and interviews with nonfederal
5 stakeholders."

6 Did I read that correctly?

7 A. Yes.

8 Q. Is that consistent with the DEA's
9 understanding of GAO's engagement with DEA in
10 the course of this investigation?

11 A. Yes.

12 Q. That report indicates that the GAO
13 interviewed DEA Office of Diversion Control
14 officials, correct?

15 A. Correct.

16 Q. Who was interviewed?

17 A. I don't know specifically the names
18 of the individuals that were interviewed, but
19 they would have been senior officials within
20 the diversion control.

21 At the time it was the Office of
22 Diversion Control. Now they are the Diversion
23 Control Division.

24 Q. And these senior officials would
25 have had personal knowledge and understanding

1 of the communications and guidance that DEA had
2 given to registrants in the past, correct?

3 A. Absolutely. Yes.

4 Q. It also indicates that -- that GAO
5 obtained and reviewed documents from the Drug
6 Enforcement Administration, correct?

7 A. Yes.

8 Q. What documents did they obtain?

9 A. Well, I -- I believe they were
10 referred to throughout the report -- some of
11 the documents -- they talked about a Know Your
12 Customer document in 2011. And I'm not -- I'm
13 not certain of what other types of documents
14 they would have specifically asked for and
15 reviewed.

16 Q. One of the issues that the GAO was
17 investigating was the adequacy of DEA's
18 guidance to distributors relating to suspicious
19 order monitoring, correct?

20 A. Yes.

21 Q. Did the GAO issue any
22 recommendations concerning DEA's guidance to
23 wholesale distributors relating to suspicious
24 order monitoring and reporting?

25 A. Let me go back to read the

1 recommendation.

2 Recommendation 2 was to --

3 Q. Can -- before you begin, can you let
4 me know which page you're reading from?

5 A. Sure. I'm on Page 44 of the report.

6 Q. Okay. Great. I'm sorry. Please
7 continue.

8 A. Recommendation 2 was: "Solicit
9 input from distributors or associations
10 representing distributors and develop
11 additional guidance for distributors regarding
12 their roles and responsibilities for suspicious
13 orders monitoring and reporting."

14 Q. Now, in your understanding of the
15 GAO's report, that recommendation encompassed
16 both additional communications with
17 distributors and additional written guidance,
18 correct?

19 MS. WAITES: Objection. Misstates
20 the document. Mischaracterizes the document.

21 THE WITNESS: I just want to go back
22 and read specifically.

23 "Solicit input and develop
24 additional guidance for distributors."

25 It doesn't necessarily, as I

1 understand, separate between whether it be
2 verbal or whether it be in writing.

3 BY MR. MASTERS:

4 Q. Okay. Did -- did the report say
5 that some of the distributors wanted more
6 guidance?

7 A. Yes.

8 Q. In fact, more than half of the
9 distributors who responded to the open-ended
10 questions in the survey said they needed more
11 communication, information and inter --
12 interactions with DEA, correct?

13 A. Yes. I believe that's on Page 26 of
14 the report, if I'm not mistaken.

15 Q. That is correct. You have a great
16 memory.

17 In the middle of paragraph beginning
18 with "Furthermore," it says: "Furthermore, in
19 response to an open-ended question about what
20 additional interactions they would find helpful
21 to have with DEA, more than half of the
22 distributors that offered comments said they
23 needed more communication or information from
24 or interactions with DEA."

25 Did I read that correctly?

1 A. That -- that looks correct, yes.

2 Q. Did the GAO say that the DEA was
3 giving more written guidance to pharmacies and
4 physicians than it was to distributors?

5 A. I think that's a fair
6 characterization. The report discussed the
7 pharmacist manual and the practitioner's
8 manual, which were written publications on the
9 diversion web site. And there is no such
10 manual for DEA registered distributors.

11 Q. Let's -- let's go ahead and turn to
12 that section of the report. It's one page over
13 on Page 25.

14 A. Uh-huh.

15 Q. Would you please read for the record
16 the first two sentences of the second
17 paragraph.

18 A. "Some survey responses indicate that
19 additional guidance for distributors regarding
20 suspicious orders monitoring and reporting, as
21 well as more regular communication, would be
22 beneficial.

23 For example, while DEA has created
24 guidance manuals for pharmacists and
25 practitioners, the agency has not developed a

1 guidance manual or a comparable document for
2 distributors."

3 Q. Did the GAO conclude that additional
4 guidance for distributors regarding suspicious
5 order monitoring and reporting would be
6 beneficial?

7 A. Their recommendation is as we had
8 previously discussed.

9 Q. And -- and the GAO found
10 specifically that that additional guidance
11 would be beneficial, correct?

12 A. Well, if they are making a
13 recommendation, then they are recommending that
14 the DEA take action on that front.

15 Q. Okay. Great.

16 And -- and just going back to Page
17 25, the first sentence indicates that -- well,
18 I'll -- I'll strike that.

19 Was the GAO concerned that, in the
20 absence of clear guidance, distributors may be
21 setting conservative thresholds on the amount
22 of controlled substances that they will sell to
23 pharmacies.

24 MS. WAITES: Objection. Vague.
25 Lacks foundation.

1 THE WITNESS: I -- I don't want to
2 get into the head of GAO. I actually don't
3 know the answer to your question.

4 BY MR. MASTERS:

5 Q. Let's turn to Page 27 of the report,
6 the second paragraph about two-thirds of the
7 way down, beginning with "Additionally."

8 Do you see that?

9 A. I do.

10 Q. Can you read that sentence?

11 A. "Additionally, in the absence of
12 clear guidance from DEA, our survey data show
13 that many distributors are setting thresholds
14 on the amount of certain controlled substances
15 that can be ordered by their customers, i.e.,
16 pharmacies and practitioners, which can
17 negatively impact pharmacies and ultimately
18 patients' access."

19 Q. Does the DEA agree with that
20 statement?

21 A. I would say that this sentence is
22 talking about what distributors told GAO. And
23 I think that G -- we would agree that arbitrary
24 thresholds set by a pharmacy -- or excuse me --
25 by a distributor could create supply access

1 issues.

2 But on the flip side, I would say
3 that those types of arbitrary thresholds could
4 actually create oversupplies as well.

5 Q. And here the GAO, in -- in response
6 to the surveys, is observing that the
7 thresholds are restricting supply, correct?

8 A. They're quote -- I -- I take this
9 statement to be quoting from one of the survey
10 respondents. And it's unclear whether -- oh,
11 that was a chain pharmacy corporate office
12 survey.

13 I was going say I was unclear as to
14 whether it was a -- a distributor or a pharmacy
15 that was actually indicating that.

16 Q. So the -- so the -- the pharmacy
17 surveys are showing that -- are showing to --
18 to GAO that these -- that the absence of clear
19 guidance is resulting in distributors setting
20 thresholds that are -- that's restricting the
21 supply of these drugs and ultimately negatively
22 impacting pharmacies and patient access,
23 correct?

24 MR. SMITH: Objection.
25 Mischaracterizes the document.

1 THE WITNESS: And I was going to say
2 I -- I would push back on that -- the way that
3 you offered that. Because I think you're
4 inferring that the lack of guidance has
5 resulted in these distributors setting
6 arbitrary thresholds.

7 That is a business decision that is
8 being made by distributors. And so I can't
9 necessarily say that this document connects one
10 with the other.

11 BY MR. MASTERS:

12 Q. So in the GAO's view though, "In the
13 absence of clear guidance from DEA, our survey
14 data show that many distributors are setting
15 thresholds on the amount of certain controlled
16 substances that can be ordered by their
17 customers," correct?

18 A. That is a correct repeat of that
19 sentence. But it does -- it's coming from the
20 survey results. So it's coming from, in this
21 case, a pharmacy or a corporate pharmacy.

22 Q. And the GAO is connecting that to
23 the absence of clear data -- or clear guidance,
24 right?

25 A. I -- I -- I don't -- I don't

1 necessarily agree with that assertion.

2 Q. Okay. GAO was provided -- or GAO
3 provided DEA with a draft of this particular
4 report prior to its publication, correct?

5 A. Correct.

6 Q. And Mr. Joseph Rannazzisi responded
7 in a letter on behalf of DEA, correct?

8 A. That is --

9 Q. And who --

10 A. -- correct.

11 Q. -- who is Joseph Rannazzisi?

12 A. So Joseph Rannazzisi, at the time
13 this report came out, was the deputy assistant
14 administrator for the diversion control -- or
15 the Office of Diversion Control. So he would
16 have been the person who ran the diversion --
17 the diversion control program.

18 Q. And -- and DEA's position was that
19 additional guidance was not necessary?

20 A. That is correct. DEA explained the
21 multitude in -- of ways in which its already
22 communicated in this case with distributors.

23 Q. And DEA's position was that the --
24 the text of the suspicious order regulation
25 itself was sufficiently straightforward,

1 correct?

2 A. It had been in place for 40 -- at
3 the time of this publication, probably 45
4 years; and that it was well understood by our
5 DEA registrant community; and that we did not
6 see a -- a need to expand upon it.

7 Q. And -- and be -- in part because the
8 DEA's position was that it was sufficiently
9 straightforward.

10 A. I -- I think that's correct, yes.

11 Q. And the -- but the GAO found in its
12 survey that many registrants did not feel that
13 it was well understood and, in fact, wanted
14 more guidance, correct?

15 A. Survey respondents did show that
16 they would like more guidance.

17 Q. More than half of the distributors
18 who -- who commented on that said -- said that,
19 right?

20 A. Yeah. And I -- I want to make a
21 point of clarification on that.

22 If -- if we -- if we go to Table 21,
23 which is something that I think is -- is
24 necessary to point out -- remember we have 750
25 controlled substance distributors at present.

1 The survey asked a number of questions. And
2 then it's asked some open-ended questions. And
3 you're obviously referring to the open-ended
4 questions.

5 But like we said at the outset, they
6 sent 200 surveys out to distributors. They
7 received 77 responses on a question to
8 distributors about guidance that -- that DEA
9 provided.

10 And to your point, there was a
11 portion of those 77 who asked for more
12 guidance.

13 Q. Fair enough.

14 The DEA also told the GAO that,
15 short of providing arbitrary thresholds to
16 distributors, it cannot provide more specific
17 suspicious orders guidance because the
18 variables that indicate a suspicious order
19 differ among distributors and their customers,
20 correct?

21 A. Can -- can you point that out on
22 the --

23 Q. Sure. Page -- give me one second.
24 It's -- it's in the -- the letter that Joseph
25 Rannazzisi sent. On Page 81 of the report,

1 Page 5 of the letter.

2 A. Okay.

3 Q. Second -- or first full paragraph,
4 last sentence.

5 Would you read that for the record?

6 A. Sure.

7 "Short of providing arbitrary
8 thresholds to distributors, DEA cannot provide
9 more specific suspicious orders guidance as the
10 variables that indicate an order is suspicious
11 are very fact-intensive and differ from
12 distributor to distributor and from customer to
13 customer."

14 Q. Can you explain what that means?

15 A. Yes, I -- I can. So DEA -- we have
16 long understood that distributors would like
17 nothing more than for DEA to tell them how much
18 an average pharmacy should be able to purchase.
19 And then they could use DEA's assessment as
20 a -- to set a threshold. And that would give
21 them the opportunity to, you know, basically
22 say that that's a DEA-established threshold.

23 What we've said is, with 71,000
24 DEA-registered pharmacies and 18,000 hospitals
25 and 1,700 narcotic treatment programs, all of

1 the types of customers that distributors sell
2 to, we can't do that.

3 Because, quite frankly, the
4 circumstances on what is appropriate for one
5 pharmacy may be completely different than the
6 requirements of another pharmacy. It's based
7 on the population. It's based on the types of
8 patients that are bringing prescriptions in to
9 pharmacies or -- or being dispensed or
10 administered at hospitals. It's the based on a
11 number of different factors.

12 And pharmacies that are around the
13 corner from one another may have vastly
14 different profiles that are acceptable.

15 So DEA feels very strongly that that
16 is something that only a distributor can know.
17 Because a distributor is going to have much
18 more of a working knowledge of who their
19 customers are, more so than DEA.

20 And I would argue that, if you end
21 up setting an arbitrary limit on how much can
22 be distributed by -- if DEA were to do this,
23 you could inadvertently create a shortage of a
24 situation if that amount is not sufficient. Or
25 on the flip side, if the -- if that number is

1 too high, you could actually create overages;
2 and therefore, DEA is of the opinion that
3 increases in availability could have the
4 unintended consequence of increasing diversion
5 and abuse.

6 Q. And so DEA was not willing to
7 provide additional guidance -- more specific
8 suspicious order guidance than what is in the
9 regulation itself?

10 A. At the time that this letter went
11 out, that is accurate.

12 Q. And the regulation itself defines a
13 suspicious order as an order of unusual size,
14 deviating substantially from the normal
15 pattern, or an order of unusual frequency,
16 correct?

17 A. That's sounds correct.

18 Q. And -- and the regulation does not
19 say what an unusual size means, correct?

20 MS. WAITES: Objection. Scope.

21 THE WITNESS: It does not go on to
22 define any of those terms.

23 BY MR. MASTERS:

24 Q. And at the time that this letter was
25 written, the DEA had not provided additional

1 specific written guidance as to what unusual
2 size, frequency or pattern means, correct?

3 MS. WAITES: Objection. Scope.

4 THE WITNESS: That is correct.

5 Although I want to qualify that by saying
6 nothing as it pertains to what I think they
7 distributors wanted, which was something in
8 writing.

9 DEA was certainly increasing its
10 liaison opportunities with the distributor
11 community in terms of distributor conferences
12 that we held in '13, '15 and '16; kind of
13 one-on-one engagements through what's known as
14 our distributor initiative, which we initiated
15 back in 2011 and continues to this day.

16 And so I think, with a very limited
17 registrant population -- they represent, what,
18 0.06 percent of our DEA registrant population,
19 if not slightly less -- that the one-on-one
20 interaction we believe in -- in a -- in a
21 person-to-person, face-to-face environment
22 is -- is better.

23 Q. But no written -- but you mentioned
24 no additional written guidance, correct?

25 A. At the time of this letter, no.

1 Q. Okay. In its report GAO responded
2 to the DEA's letter, right?

3 A. Can you repeat the question.

4 Q. In -- in its report, the GAO
5 addressed what the DEA said in its letter,
6 correct?

7 A. Yes.

8 Q. And notwithstanding the DEA's
9 comments on the draft report, the GAO still
10 found that the DEA could provide additional
11 guidance to distributors, right?

12 A. Can you point to what -- what you're
13 referring to?

14 Q. Turning to Page 44, it says:
15 "Agency comments and our evaluation."

16 A. Yeah.

17 Q. Do you see that?

18 A. Yes, I do.

19 Q. And so this is the section in which
20 the GAO is responding to the Department of
21 Justice's response, correct?

22 A. Yes.

23 Q. And on page 45, it acknowledges
24 the -- the DEA's concerns about our second
25 recommendation to solicit input from

1 distributors or associations representing
2 distributors and to develop additional guidance
3 for distributors, right?

4 A. Yes.

5 Q. Then on page -- well, let's -- let's
6 walk through some of these.

7 It goes on to say that -- to repeat
8 what we just talked about, that short of
9 providing arbitrary thresholds to distributors,
10 it cannot provide more specific suspicious
11 orders guidance, right?

12 A. Yes.

13 Q. The -- the GAO is summarizing the
14 DEA's letter.

15 A. The DEA's comment. That's correct.

16 Q. And it says: "Instead, DEA
17 highlighted regulations that require
18 distributors to design and operate systems to
19 disclose suspicious orders," right?

20 A. Correct. Yes.

21 Q. And it says: "However, according to
22 DEA's customer service plan for registrants,
23 DEA is responsible for developing guidance for
24 registrants regarding the CSA and its
25 regulations. And the agency was able to create

1 such guidance for pharmacy and practitioner
2 registrants."

3 Did I read that correctly?

4 A. That is correct.

5 Q. Turning to Page 46, that same
6 paragraph toward the end, the GAO -- well,
7 would you please read the sentence beginning
8 with "Therefore."

9 A. "Therefore, we continue to believe
10 that DEA could provide additional written
11 guidance for distributors that could be more
12 widely accessible to all distributor
13 registrants."

14 Q. So here the GAO is not only
15 recommending additional guidance but additional
16 written guidance, correct?

17 A. Correct.

18 Q. And the GAO had -- had found that
19 the DEA has created guidance manuals for
20 pharmacists and practitioners like doctors but
21 not distributors, right?

22 A. Yes.

23 Q. Is it true that the DEA had created
24 manuals for pharmacists and practitioners about
25 their regulatory obligations?

1 A. Yes.

2 (Deposition Exhibit 4 was marked for
3 identification.)

4 BY MR. MASTERS:

5 Q. I'm showing you what has been marked
6 as Exhibit 4.

7 Why don't you keep that report close
8 and hand. Because we'll --

9 A. Come back to it?

10 Q. -- be coming back to it. Thanks.

11 Can you identify this document?

12 A. This is DEA's pharmacist manual.

13 Q. So this is one of the -- one of the
14 two manuals that we just spoke about that DEA
15 has provided to -- to registrants but not to
16 distributors, correct?

17 A. Yeah. We would not provide this to
18 distributors. But yes, we -- this is a
19 document that is provided for the benefit of
20 our 71,000 retail pharmacies nationwide.

21 Q. And if we turn to -- just after
22 the -- the table of contents, at -- at -- let's
23 see. Where is this? Actually, just before the
24 table of contents. This is the very second
25 page of the document -- notes that: "This

1 manual has been prepared by the Drug
2 Enforcement Administration Office of Diversion
3 Control as a guide to assist pharmacists in
4 their understanding of the federal Controlled
5 Substances Act and its implementing regulations
6 as they pertain to the pharmacy profession."

7 Did I read that correctly?

8 A. That is correct.

9 Q. And this manual is a total of --
10 let's see -- 79 pages, correct?

11 A. Correct.

12 Q. And it provides additional written
13 -- additional written guidance to pharmacists
14 about how they can comply with the CSA and its
15 regulations in -- in the course of their
16 profession, correct?

17 MS. WAITES: Objection. Scope.

18 THE WITNESS: It is a summary
19 document of the rules and regulations
20 pertaining to DEA registrants.

21 BY MR. MASTERS:

22 Q. And it explains those -- those --
23 those regulations and -- and gives them
24 guidance on how to follow them in their
25 professional practice, correct?

1 MS. WAITES: Objection. Scope.

2 BY MR. MASTERS:

3 Q. That's what we just read.

4 A. Yeah. I -- I'm -- I'm -- that's
5 fine. Yes. I agree.

6 Q. Okay. And is it also true that, at
7 the time of this report, DEA had not developed
8 a guidance manual or comparable document to the
9 one we just looked at for distributor
10 registrants?

11 A. Yes.

12 Q. And GAO here recommended that you
13 create one.

14 MS. WAITES: Objection.
15 Mischaracterizes the document.

16 THE WITNESS: GAO recommended
17 additional written guidance or additional
18 guidance. And that is something that is
19 currently required in order to close out this
20 remaining open recommendation.

21 BY MR. MASTERS:

22 Q. And has DEA provided that to
23 distributors yet?

24 A. It's deliberative. We are
25 actually -- as you may know, in fall of 2017,

1 DEA -- the Department of Justice added to its
2 unified agenda suspicious order reporting as a
3 regulatory priority. So there will be written
4 guidance in the form of a notice of proposed
5 rule making published in the Federal Register.
6 And that's an effort that was added to the
7 unified agenda in the fall of '17.

8 Q. And has -- has -- as of today, what
9 is the status of this recommendation from the
10 GAO?

11 MS. WAITES: Objection.

12 To the extent it calls for
13 privileged information, you cannot respond.
14 But if you can respond without disclosing
15 privileged information, that's fine.

16 THE WITNESS: I will be very
17 careful. Because obviously, as a deliberative
18 document, we can't talk about the details of
19 what may or may not be in it. But it does
20 remain under review within the executive
21 branch.

22 BY MR. MASTERS:

23 Q. So as of today, DEA has not provided
24 to -- to -- to distributors the additional
25 written guidance called for by the GAO in this

1 report?

2 A. Beyond the stuff that we've already
3 discussed pertaining to our continued efforts
4 to work with registrants directly, put --
5 barring that aside, yes.

6 The reg -- the regulation, once
7 published, we understand from GAO, will be the
8 basis by which this recommendation can be
9 closed.

10 Q. And just to be clear, as of today,
11 the DEA has not provided the additional written
12 guidance that GAO recommended to distributors
13 as of today, correct?

14 MS. WAITES: Objection. Asked and
15 answered.

16 THE WITNESS: It remains an open
17 recommendation.

18 MR. MASTERS: Okay. Could we take a
19 quick break?

20 MS. WAITES: Yes.

21 THE VIDEOGRAPHER: We are going off
22 the record.

23 This is the end of Media Unit No. 1.

24 The time is 9:59.

25 (A short recess was taken.)

1 THE VIDEOGRAPHER: We are back on
2 the record.

3 This is the beginning of Media Unit
4 No. 2.

5 The time is 10:14.

6 You may proceed, Counsel.

7 (Deposition Exhibit 5 was marked for
8 identification.)

9 BY MR. MASTERS:

10 Q. I'm showing you what has been marked
11 Exhibit 5.

12 Can you identify this document?

13 A. Yes. This is GAO 16-737T. This was
14 congressional testimony provided by Diana
15 Maurer to the senate Homeland Security
16 Committee, I believe -- I'm sorry -- Committee
17 of the Judiciary.

18 Q. And -- and -- sorry.

19 And who is Diana Maurer?

20 A. Her title here is director for
21 homeland security and justice at the GAO.

22 Q. And she was providing testimony to
23 congress on behalf of the GAO regarding prior
24 GAO reports and recommendations for the Drug
25 Enforcement Administration, correct?

1 A. Correct.

2 Q. Were you aware of this testimony
3 when it was given?

4 A. Yes. Because DEA had a witness as
5 well.

6 Q. Okay. Did you review this report in
7 preparation for today's testimony?

8 A. I did.

9 Q. Turning to Page 19. Ms. Maurer, on
10 behalf of the GAO, is commenting on the DEA's
11 efforts to comply with the recommendation in
12 the report we were discussing a moment ago,
13 correct?

14 A. Could you point to the paragraph?

15 Q. The paragraph -- the second full
16 paragraph.

17 A. The second full paragraph. I
18 have --

19 Q. So beginning the sentence "In
20 commenting" --

21 A. "In commenting."

22 Q. -- "on our report."

23 So I'll ask my question again.

24 Ms. -- Ms. Maurer, on behalf of the
25 GAO, is commenting here on the DEA's efforts to

1 comply with the recommendation in the report we
2 were discussing a moment ago, correct?

3 A. Correct.

4 Q. And it notes that: "In April 2016,
5 DEA provided information about ongoing efforts
6 to educate distributors about their roles and
7 responsibilities for monitoring and reporting
8 suspicious orders, such as their distributor
9 conferences, and noted that it plans to host a
10 yearly training for distributors."

11 Did I read that correctly?

12 A. That is correct.

13 Q. Would you please read the next two
14 sentences?

15 A. "However, DEA" noted -- "However" --
16 excuse me.

17 "However, DEA did not mention any
18 plans to develop and distribute additional
19 guidance for distributors. We continue to
20 believe that a guidance document similar to the
21 one offered for pharmacies and practitioners
22 could help distributors further understand and
23 meet their role and responsibilities under the
24 CSA."

25 Q. Is it true that at that time the DEA

1 had not mentioned any plans to develop and
2 distribute additional guidance for
3 distributors?

4 A. My recollection is that the
5 correspondence that she's referring to in April
6 2016, we were recommending closing the
7 recommendation based on some of the conferences
8 that we were hosting; and that that -- we
9 thought that that was sufficient.

10 And as she had stated in her
11 testimony, and as it became understood shortly
12 thereafter, in order to close the
13 recommendation, we understood that we would
14 need to be doing something in writing.

15 Q. Okay. When you say as it was made
16 clear shortly thereafter, that in order to
17 close the recommendation, you would -- the DEA
18 would need to provide something in writing,
19 what are you referring to?

20 A. So as we had discussed, our GAO
21 audit liaison team had regular correspondence
22 with GAO with the goal of closing out
23 recommendations. And that correspondence is in
24 writing. And it's relatively routine.

25 So I am recounting my review of

1 those internal communications that went back
2 and forth to GAO where we had actually, on more
3 than one occasion, sought to close this
4 recommendation based on the -- the conferences
5 that we just referenced.

6 And it -- that's why I say it became
7 clear that they wanted something in writing.

8 (Deposition Exhibit 6 was marked for
9 identification.)

10 BY MR. MASTERS:

11 Q. I'm showing you what has been marked
12 as Exhibit 6.

13 Can you identify this document?

14 A. Just as I had previously stated,
15 this is an example of the types of
16 correspondence that DEA -- in this case this
17 came from our chief compliance officer, who had
18 the O -- the GAO audit liaison team underneath
19 her. This would have been that -- that routine
20 correspondence as the agency works the closeout
21 recommendations.

22 Q. And specifically this is called a --
23 a -- a Drug Enforcement Administration status
24 report, correct?

25 A. Yes. They are referred to as status

1 reports.

2 Q. And in this status report, DEA is
3 providing an update on actions taken to address
4 the GAO's report and recommendations, correct?

5 A. Correct. At this time in June of
6 2017, none of the recommendations had been
7 closed.

8 Q. And as you indicated a moment ago,
9 Recommendation No. 2, which is what related to
10 guidance to distributors, had not been closed
11 because the GAO felt that the DEA needed to
12 provide written guidance in order to close the
13 recommendation, correct?

14 MS. WAITES: Objection. Misstates
15 prior testimony.

16 THE WITNESS: So this is the -- this
17 is -- this response on Page 2 represents the
18 agency's discussion about the regulatory
19 drafting efforts that it was undertaking.

20 BY MR. MASTERS:

21 Q. My -- my question is a little
22 different.

23 You -- you mentioned a moment ago
24 that the -- that, as of June 2017, none of the
25 recommendation had been closed.

1 And I -- I'm -- I'm ask -- asking if
2 that -- well -- that that is because, in the
3 GAO's view, the -- the DEA needed to provide
4 written guidance, and the DEA had not done that
5 as of this point, correct?

6 A. That's -- my understanding is that
7 the GAO did not -- declined to close out
8 Recommendation 2 based on previous status
9 reports.

10 Q. Got it.

11 So let's turn to the DEA's response
12 to Recommendation No. 2.

13 Here the DEA states that it is:
14 "reviewing and revising current regulations
15 regarding suspicious orders, which will include
16 guidance for distributors regarding their roles
17 and responsibilities for monitoring and
18 reporting."

19 Did I read that correctly?

20 A. That is correct.

21 Q. So in response to the GAO's
22 recommendation to develop additional written
23 guidance, DEA was not proposing to develop a
24 guidance manual or comparable document to the
25 one that exists for pharmacists and

1 practitioners, correct?

2 A. I think that gets a little bit at
3 some of the predecisional stuff that I have to
4 raise some concerns. I -- I don't really feel
5 I can answer that question.

6 Q. In -- in the DEA status report, it
7 mentions nothing -- in this document, the DEA
8 mentions nothing about plans to develop a
9 guidance manual or comparable document to the
10 pharmacist and practitioner manual, correct?

11 A. A plain reading of that first
12 sentence talks about regulations.

13 Q. Instead, in order to satisfy the
14 GAO's recommendation to develop additional
15 written guidance, DEA planned to revise the
16 existing suspicious order regulations, correct?

17 MS. WAITES: Objection to the extent
18 it calls for privileged information.

19 THE WITNESS: Clearly the -- the --
20 the clear language says that "we are seeking to
21 revise our regulations."

22 BY MR. MASTERS:

23 Q. And that these new regulation would
24 include additional guidance for distributors
25 regarding their roles and responsibilities for

1 monitoring and reporting, correct?

2 A. A Federal Register Notice that seeks
3 to revise regulations on the books for 45 years
4 would obviously have to include extensive
5 information, which is often considered as the
6 public considers how they want to comment. In
7 -- in this case, the -- the public would be our
8 DEA registered distributor.

9 Q. And the distributors would have an
10 opportunity to comment on this additional
11 guidance, correct?

12 A. Absolutely. All formal rule making
13 takes place under notice and comment rule
14 making procedures. So the public will
15 absolutely have an opportunity to comment.

16 Q. And that -- and given that -- and
17 this is the first time that these regulations
18 would be revised, correct?

19 A. Based on --

20 MS. WAITES: Objection. Scope.

21 THE WITNESS: I was going to say,
22 based on my understanding -- and I didn't do a
23 fulsome analysis of the regulatory history on
24 this. But my understanding is -- is that these
25 regs came into play somewhere between '70 and

1 '73 and have not really been revised in our
2 regulations since that time.

3 BY MR. MASTERS:

4 Q. And the next sentence indicates that
5 a preliminary draft of proposed regulations has
6 been written and is pending editing, review and
7 approval by management within the diversion
8 control division, correct?

9 A. That is what it says, yes.

10 (Deposition Exhibit 7 was marked for
11 identification.)

12 BY MR. MASTERS:

13 Q. Showing you what has been marked as
14 Exhibit 7.

15 Can you identify this document?

16 A. This appears to be another status
17 update from our audit liaison folks to GAO
18 dated February 20th, 2018.

19 Q. So this is a -- another status
20 report --

21 A. Correct.

22 Q. -- similar to the one we just
23 reviewed, correct?

24 A. Yes.

25 Q. If -- if we turn to the second page

1 of the letter, which is -- which contains DEA's
2 response regarding the second recommendation,
3 it now notes that the DEA reviewed and revised
4 the current regulation regarding suspicious
5 orders, correct?

6 A. Correct.

7 Q. So before it was the DEA is
8 reviewing and revising, and now it's in the
9 past tense, right?

10 A. Correct.

11 Q. And the -- I guess I should have
12 asked when was this letter written?

13 A. It was written February 20th of
14 2018.

15 Q. And as of February 20th, 2018, when
16 was the revised regulation on track to be
17 published in the Federal Register?

18 A. The revision of the current
19 regulation regarding suspicious orders is on
20 track to be published in the Federal Register
21 by the end of the third quarter for fiscal year
22 2018. So that would be June 30th, 2018.

23 Q. And -- and what does -- what does it
24 mean to be -- for a regulation to be published
25 in the Federal Register?

1 A. That means -- to us it mean a notice
2 of proposed rule making would be ready to be
3 published for public comment on or before that
4 time frame.

5 Q. That still has -- as of today,
6 sitting here today, the revised regulation that
7 the DEA indicated was on track to be published
8 by the end of the third quarter fiscal year
9 2018, June 30th, still has not been published
10 for -- in the Federal Register, correct?

11 A. Yes. If -- if we go back to
12 Exhibit 6, I like DEA's response. Because the
13 last two or three sentences to Recommendation 2
14 talks about some executive orders that present
15 a, quote, potential obstacle to publication.

16 "These new executive branch
17 directives may restrict the promulgation of new
18 regulations or may delay the approval process
19 for any new regulation. These directives
20 include January 20th, 2017, White House
21 memorandum and February 2nd, 2017, Office of
22 Management and Budget memorandum."

23 Q. Okay. So -- so those were potential
24 obstacles.

25 A. Correct.

1 Q. And in -- in that -- in that update,
2 you wrote: "Absent these potential obstacles,
3 DEA anticipates the additional review, notice,
4 comment and final publication in the Federal
5 Register will be completed by the end of the
6 third quarter fiscal year 2018."

7 A. I think what we were trying to say
8 is there's a qualifier.

9 Q. Sure.

10 A. If -- absent these kind of
11 interagency or White House directives, we could
12 do it by then. However, as -- as -- where
13 you're going with this question, I just want to
14 say that that is a -- a reasonable -- excuse
15 me -- that is a cause for why there's been
16 delays?

17 Q. In -- in your next letter you don't
18 mention any of those obstacles.

19 A. Correct.

20 Q. You instead say that it's on track
21 to be published, right?

22 A. Correct.

23 Q. And in August of 2018, the DEA
24 provided GAO with an additional update
25 indicating that the regulation would not be

1 published at the end of the third quarter
2 fiscal year 2018, correct?

3 MS. WAITES: Objection. Lacks
4 foundation.

5 THE WITNESS: Yeah. I -- I would
6 need to see that.

7 MR. MASTERS: Sure.

8 (Deposition Exhibit 8 was marked for
9 identification.)

10 BY MR. MASTERS:

11 Q. Showing you what has been marked as
12 Exhibit 8. It's a -- a double-sided document.

13 The Bates stamp for this document is
14 US-DEA 00026833, correct?

15 A. Correct.

16 Q. Can you identify this document?

17 A. This is taken from the GAO's web
18 site. And it represents a summary and status
19 of reports and open recommendations.

20 Q. And specifically the status report
21 -- the status of -- that the GAO is referring
22 to here is the status of recommendations
23 relating to the 2015 report that the DEA --
24 that more DEA information about registrants'
25 controlled substances roles could improve their

1 understanding and help ensure access, correct?

2 A. Correct.

3 Q. At the bottom there, it appears that
4 there is a table with the column on the left
5 describing the recommendation and the column on
6 the right describing the status and comments
7 from GAO; is that correct?

8 A. Yes.

9 Q. And the second recommendation, which
10 again is the one relating to distributors,
11 appears to cover the end of the first page and
12 onto the second page, right?

13 A. Yes.

14 Q. And at this point, the -- the GAO's
15 web site indicates that the status of that
16 second recommendation is open, correct?

17 A. Yes.

18 Q. And in the -- in the GAO's comments,
19 it states that: "In February 2018, DEA
20 reported that the agency had reviewed and
21 revised the current regulation regarding
22 suspicious orders and that the revised draft
23 rule was undergoing internal DEA review. DEA
24 reported in August 2018 that they anticipated
25 sending the draft rule to the Department of

1 Justice's Office of Legal Policy by the end of
2 the first quarter of fiscal year 2019."

3 Did I read that correctly?

4 A. That is correct.

5 Q. What does it mean to send a
6 regulation to the Department of Justice's
7 Office of Legal Policy?

8 A. As part of our -- as part of the
9 regulatory drafting process, we always like to
10 make sure the public knows that it is not DEA's
11 ability to just publish something on its own.
12 There is often -- or not often -- in every
13 instance extensive collaboration.

14 That collaboration first takes place
15 with the Department of Justice, which is our
16 parent organization. And then there is
17 interagency coordination that's facilitated by
18 the Office of Management and Budget, which is
19 OMB.

20 That OMB review is going to be
21 reviews by agencies that would be involved,
22 like the Department of Health and Human
23 Services in the case of controlled substance
24 regulation.

25 So our -- this update is indicating

1 that, by the end of the first quarter, we had
2 hoped to have that draft sent to the Department
3 of Justice.

4 Q. And --

5 A. And specifically the Office of Legal
6 Policy, who oversees the reg drafting efforts
7 for all the subcomponents within the Department
8 of Justice.

9 Q. Thank you.

10 And that is a step that takes place
11 prior to final publication in the Federal
12 Register, correct?

13 A. Absolutely. It takes place prior to
14 publication of the notice. And it takes place
15 prior to the publication of a final rule.

16 Q. So here in the August 2018 update
17 that is being described by the GAO, the DA --
18 the DEA is suggesting that it is no longer on
19 track to publish the regulation in the Federal
20 Register by the end of the fiscal year 2018,
21 correct?

22 A. That's correct.

23 Q. In fact, now it would be not until
24 the first quarter fiscal year 2019 that the
25 regulation would even be delivered to the

1 Office of Legal Policy, right?

2 A. That's correct.

3 Q. Since -- since -- well, so here we
4 are today, the second quarter of 2019, May
5 31st.

6 Has the DEA sent the regulation to
7 the Office of Legal Policy?

8 MS. WAITES: Objection.

9 If it's privileged, do not respond.

10 THE WITNESS: Yeah. I -- I -- I
11 don't -- that's going to get into deliberative
12 process. And I don't feel comfortable
13 responding to that question.

14 BY MR. MASTERS:

15 Q. Okay. As of now, the second quarter
16 of 2019, May 31st, and -- and almost four years
17 after the GAO recommended that the DEA provide
18 additional written guidance to distributors,
19 has the DEA published a revised regulation in
20 the Federal Register?

21 A. No.

22 Q. Has the DEA published a guidance
23 manual or comparable document to the one that
24 exists for pharmacists and practitioners?

25 A. No.

1 MR. MASTERS: We could go off the
2 record real quick just to make sure that I
3 don't have any more questions. But I think I
4 might be done.

5 THE VIDEOGRAPHER: We are going off
6 the record.

7 The time is 10:36.

8 (A short recess was taken.)

9 THE VIDEOGRAPHER: We are back on
10 the record.

11 The time is 10:57.

12 You may proceed, Counsel.

13 MR. MASTERS: Mr. Strait, at this
14 time I have no further questions. Thank you
15 for your time.

16 THE WITNESS: Thank you.

17 EXAMINATION BY COUNSEL FOR PLAINTIFFS

18 BY MS. ELLIS:

19 Q. Good morning, Mr. Strait.

20 A. Good morning.

21 Q. My name is Tiffany Ellis. I
22 represent the plaintiffs in this case.

23 I just have a few follow-up
24 questions for you this morning.

25 A. Okay.

1 Q. I want you to flip to the back page
2 of Exhibit 3, please. Well, I guess the last
3 page, to be technical.

4 The first section under that -- I'm
5 at page -- it reads "The GAO's Mission."

6 Could you read that for me, please.

7 A. Sure.

8 "The Government Accountability
9 Office, the audit evaluation and investigative
10 arm of congress, exists to support congress in
11 meeting its constitutional responsibilities and
12 to help improve the performance and
13 accountability of the federal government for
14 the American people. GAO examines the use of
15 public funds; evaluates federal programs and
16 policies; and provides analyses,
17 recommendations and other assistance to help
18 congress make informed oversight, policy and
19 funding decisions. GAO's commitment to good
20 government is reflected in its core values of
21 accountability, integrity and reliability."

22 Q. Would you agree that that's the
23 mission of the GAO?

24 A. Yes.

25 Q. Essentially it's to -- it's the

1 audit, evaluation, investigative arm of
2 congress; is that right?

3 A. Yes.

4 Q. The GA -- GAO is not responsible for
5 enforcing the Controlled Substances Act, is it?

6 A. No.

7 Q. And when the GAO did this report
8 that we've been talking about today, Exhibit 3,
9 it wasn't looking at whether registrants were
10 in compliance with the Controlled Substances
11 Act, was it?

12 A. No.

13 Q. It wasn't looking at whether those
14 registrants have reported suspicious orders to
15 the DEA?

16 A. No.

17 Q. It wasn't looking at whether
18 registrants had maintained adequate suspicious
19 order monitoring systems, was it?

20 A. No.

21 Q. Would you agree that, whether
22 registrants do these things, such as report
23 suspicious orders and maintain adequate
24 suspicious order monitoring systems, relate to
25 whether and -- whether or how well the DEO --

1 DEA can do its job in stopping diversion?

2 MS. WAITES: Objection. Scope.

3 MS. MONAGHAN: Objection to form.

4 BY MS. ELLIS:

5 Q. I'd like to direct you to Page 77 of
6 the report, Exhibit 3, and No. 1 of the letter
7 there.

8 Could you read the first sentence of
9 that paragraph, please.

10 A. Of recommend -- of the first comment
11 that DEA made or the first sentence of the
12 first paragraph?

13 Q. I'm looking specifically at Page 77,
14 the letter to Linda Kohn dated May 25th,
15 2015 --

16 A. Uh-huh.

17 Q. -- following "With respect to the G"
18 -- "GAO report, DEA wishes to emphasize the
19 following important facts."

20 A. Yep. Okay.

21 And read No. 1?

22 Q. Yes, please.

23 A. DEA's Office of Diversion Control is
24 responsible for administering and enforcing the
25 provisions of the CSA as they pertain to

1 ensuring the availability of controlled
2 substances for legitimate uses while preventing
3 their availability for diversion. The office
4 is not charged with reducing the illicit demand
5 for controlled substances."

6 Q. Would you agree that that's the
7 responsibility of the DEA's Office of Diversion
8 Control?

9 MS. MONAGHAN: Object to form.

10 THE WITNESS: Yes.

11 BY MS. ELLIS:

12 Q. What is the role of the DEA?

13 MS. WAITES: Objection. Vague.
14 Scope.

15 MS. MONAGHAN: Object to form.

16 BY MS. ELLIS:

17 Q. Let me direct you to Page 67 of the
18 report, Exhibit 3.

19 A. Sorry. What page?

20 Q. Page 67.

21 A. Okay.

22 Q. I may have the may -- wrong
23 reference here.

24 But would you agree that the DEA's
25 role is the -- is the primary agency

1 responsible for coordinating the drug
2 enforcement activities of the United States?

3 A. As it pertains to pharmaceutical
4 drugs containing controlled substances, yes.

5 Q. It's a law enforcement agency?

6 A. It is.

7 Q. Can the DEA take administrative
8 enforcement actions against registrants?

9 MS. WAITES: Objection.

10 MR. MASTERS: Objection. Scope.

11 MS. WAITES: Scope.

12 MS. MONAGHAN: Object to form.

13 THE WITNESS: Yes.

14 BY MS. ELLIS:

15 Q. You were asked some questions
16 earlier about the difference between pharmacies
17 and distributors. I want to direct your
18 attention back to that portion of your
19 testimony.

20 Do you recall?

21 A. Yes.

22 Q. Do you know how many registrants
23 there are total?

24 A. Currently we have 1.815 million
25 registrants.

1 Q. Do you know how many of those are
2 pharmacies?

3 A. Approximately 71,000.

4 Q. Do you know how many of those are
5 distributors?

6 A. Right now -- I think I said 750, but
7 it might be 715. But it is somewhere between
8 715 and 750.

9 Q. 715 to 750 distributors and 71,000
10 pharmacies.

11 Does the number of distributors
12 versus the number of pharmacies affect the way
13 the DEA communicates with each of those
14 different groups of registrants at all?

15 MS. WAITES: Objection. Scope.

16 MR. MASTERS: Objection. Form.

17 THE WITNESS: Yes.

18 BY MS. ELLIS:

19 Q. How so?

20 A. Obviously, with a -- with 1.8
21 million registrants, DEA has limited resources,
22 and it does need to think about how best to
23 prioritize those resources.

24 With our -- that portion of our drug
25 supply chain that handle the largest volumes of

1 controlled substances, i.e., our manufacturers
2 and our distributors, our engagement with them
3 tends to be more in person, one-on-one, and --
4 and very much routine in terms of the frequency
5 by which we conduct audits and inspections of
6 those registrants.

7 And because of sheer numbers, our
8 guidance to those other portions of our
9 registrant community that are larger, i.e.,
10 pharmacies, and prescribers, we do have to rely
11 more on providing them guidance on our
12 diversion control web site. And of course we
13 do still engage with them in person by offering
14 all sorts of different training opportunities.

15 Q. So larger numbers of registrants
16 require greater efforts?

17 MS. MONAGHAN: Objection.

18 MS. WAITES: Objection. Scope.

19 MS. MONAGHAN: Object to form.

20 MS. ELLIS: Let's me rephrase.

21 BY MS. ELLIS:

22 Q. Let -- let's go to the -- Page 2,
23 the summary, I guess, of Exhibit 3.

24 What GAO recommends, this first
25 sentence on the bottom-left corner: "GAO

1 recommends that DEA takes three actions to
2 improve communication with" a -- "with and
3 guidance for registrants about their CSA roles
4 and responsibilities."

5 A. Sorry. Did you say page --

6 Q. The summary page.

7 A. Oh, the summary page.

8 Q. Yes.

9 A. Okay. And I'm sorry. Where was
10 that directive?

11 Q. Just what GAO recommends.

12 A. Oh, yes.

13 Q. You would agree that this report is
14 focused on guidance for registrants about their
15 CSA roles and responsibilities, correct?

16 A. Yes.

17 Q. And your testimony today has been
18 focused on this report, right?

19 A. Correct.

20 Q. Is the nature of the responsibility
21 for pharmacies different than that for
22 distributors under the CSA?

23 MS. WAITES: Object to form. Scope.

24 MS. MONAGHAN: Objection. Scope.

25 MS. WAITES: Calls for legal

1 conclusion.

2 BY MS. ELLIS:

3 Q. Are you aware if -- are you aware if
4 pharmacies and distributors are subject to
5 different regulations under the CSA?

6 MS. MONAGHAN: Object to form.

7 MS. WAITES: Objection. Scope.

8 Calls for legal conclusion.

9 THE WITNESS: Yes.

10 BY MS. ELLIS:

11 Q. Are you aware whether pharmacies
12 have different reporting requirements to the
13 DEA than distributors?

14 MS. MONAGHAN: Object to form.

15 Scope. Calls for legal conclusion.

16 MS. WAITES: Object to scope.

17 THE WITNESS: I am familiar with the
18 fact that all registrant classes have different
19 requirements in terms of reporting and
20 recordkeeping. So the requirements on one
21 class of registrants, i.e., distributors, is
22 different than the requirements for another
23 class, pharmacies.

24 MS. ELLIS: Earlier you discussed
25 some of the things that the DEA -- some of the

1 actions that the DEA had taken in response to
2 the GAO's report. I want to ask you some
3 additional questions about what the DEA -- DEA
4 had done after this report at -- was issued.

5 I'm marking for the record
6 Exhibit 9.

7 (Deposition Exhibit 9 was marked for
8 identification.)

9 MS. WAITES: Do you have a copy for
10 me?

11 MS. ELLIS: I'm sorry. I think I
12 just handed the other two down that way. I
13 apologize.

14 BY MS. ELLIS:

15 Q. Exhibit 9 is a e-mail that I believe
16 you reviewed in advance of today's deposition.
17 The Bates number is cut off a little at the
18 bottom, but for the record it's
19 US-DEA-00026799.

20 Do you recall reviewing this
21 document?

22 A. Yes.

23 Q. On the second page of the document,
24 it appears to be a letter.

25 What is this letter?

1 A. This would have been one of the
2 status update letters from our GAO audit
3 liaison section to GAO. And this one was dated
4 April 27th, 2016, which means that it would
5 have been very -- within a year or right around
6 a year after the report came out.

7 Q. Is this the first status update
8 letter that you're aware was issued following
9 the report?

10 A. No. Actually, the -- there is a
11 reference to the -- in the first paragraph to a
12 status response congressional letter dated
13 September 21st, 2015.

14 And what that means to me is that
15 congress probably wrote to ask about the
16 status. And in DEA's response to congress, it
17 would have sent a CC copy to GAO.

18 Q. So that -- that would have been
19 different than this type of letter?

20 A. Correct. But it could have been
21 similar.

22 Q. Similar but not directly to GAO.
23 Okay. I want to direct you to the
24 next page of the document, Section 2.

25 What is your understanding of the

1 DEA response in Section 2?

2 What is this in response to?

3 A. Page 2, this is DEA's response to
4 Recommendation 2 about guidance for -- for
5 distributors and those associations
6 representing distributors on their suspicious
7 order monitoring reporting obligations.

8 Q. You were asked a lot of questions
9 this morning about whether the DE -- DEA had
10 issued any written guidance to distributors
11 between the time that the report was issued and
12 today.

13 Does this section describe other
14 actions that the DEA took to educate
15 distributors about their responsibilities under
16 the CSA?

17 A. Yes.

18 Q. And what are some of the actions
19 that the DEA took during this time frame as
20 outlined in this letter?

21 A. So the first paragraph talks about
22 DEA's distributor conference, which it held in
23 2013, and then, as indicated here, held in 2015
24 and 2016.

25 The -- obviously what we go on to

1 say is that information provided during these
2 conferences are published on DEA's web site.

3 The third paragraph talks about
4 DEA's work with the National Association of
5 Boards of Pharmacy and a number of other
6 stakeholder groups, which includes some
7 associations representing various aspects of
8 our registrant population on a consensus
9 document entitled "Stakeholders, Challenges and
10 Red-Flag Warning Signs Related to Prescribing
11 and Dispensing of Controlled Substances."

12 Q. Were all of these efforts by the DEA
13 to comply with the GAO's recommendation to
14 provide distributors further guidance under the
15 CSA?

16 A. Yes.

17 Q. Were some of these written?

18 A. To the extent that the distributor
19 conference presentations were -- are generally
20 PowerPoint presentations and therefore are --
21 are written documents, yes.

22 And the -- the NABP document, I
23 actually did take a look at that. I did not
24 see where DEA was actually noted as an author,
25 which is the reason I didn't mention it during

1 my -- my remarks earlier. So that I'm -- I'm
2 not certain I can say with certainty that that
3 would have constituted written DEA guidance.

4 Q. You mentioned, I think, in your
5 earlier answer something about a distributor
6 initiative and working directly with
7 distributors.

8 Do you recall that testimony?

9 A. Absolutely. Yes.

10 Q. Would -- would this be a part of
11 that?

12 A. So actually the distributor
13 initiative is separate from the issues that are
14 outlined in this response. But certainly DEA
15 has indicated that one of the main ways in
16 which it interacts with the distributor
17 community is through what's called the
18 distributor initiative, which I believe began
19 in 2006.

20 And this is direct, one-on-one
21 engagement with DEA registered distributors.
22 And that's different from the distributor
23 conference, which is a -- a number of DEA
24 registered distributors coming to a venue free
25 of charge, you know, to -- to receive

1 presentations from DEA and to collaborate with
2 DEA on -- on issues.

3 MS. ELLIS: Now marking for the
4 record Exhibit 10. US-DEA-00 -- I'm sorry.
5 US-DEA-00026803.

6 (Deposition Exhibit 10 was marked
7 for identification.)

8 BY MS. ELLIS:

9 Q. Is this also a document that you
10 reviewed in preparation for today's testimony?

11 A. It is.

12 Q. And this is dated December 20th,
13 2016?

14 A. Correct.

15 Q. What is this e-mail and its
16 attachment?

17 A. This document actually -- the e-mail
18 that's on the front page would have been from
19 the GAO audit liaison team sending what is an
20 update memorandum to our counterparts over at
21 GAO.

22 Q. So is this an -- a subsequent update
23 to the one that we just discussed?

24 A. Correct. In fact, on the first
25 paragraph, it said "DEA provided its previous

1 status response on April 27th, 2016. And
2 that's what this Exhibit 9 was.

3 Q. And what is the date of the letter
4 attached to that e-mail?

5 A. It's December 20th, 2016.

6 Q. I'll direct you to the second page
7 of the letter under Heading 2.

8 Is this an additional update as to
9 what the DEA was doing in response to the GAA
10 -- GAO's recommendation that the DEA provide
11 more specific guidance to distributors with
12 respect to their roles and responsibilities for
13 suspicious order monitoring?

14 A. Yes. This would have included
15 things that the agency was doing in an attempt,
16 and as the last paragraph reads, based on
17 the -- the preceding three paragraphs,
18 requesting closure of the recommendation, based
19 on this -- the preceding information.

20 Q. And I forgot to ask you.

21 In that previous Exhibit 9, did the
22 DEA also request closure of the recommendation?

23 A. It did.

24 Q. Did the DEA feel at that time it had
25 done -- did the DEA -- strike that.

1 Why did the DEA request closure of
2 the recommendation in Exhibit 9 or at the time
3 of Exhibit 9?

4 A. DEA reported in its response that
5 it: "request closure of this recommendation
6 based upon DEA's actions to obtain input from
7 distributors and associations representing
8 distributors. DEA will continue collaborating
9 with these businesses and associations through
10 regularly scheduled conferences and by working
11 with NABP and the coalition of stakeholders to
12 provide ongoing guidance to distributors
13 regarding their roles and responsibilities for
14 monitoring and reporting suspicious orders."

15 Q. And you were just reading from the
16 document, Exhibit 9, right?

17 A. Correct.

18 Q. Now, in Exhibit 10, did the DEA also
19 request closure of this recommendation?

20 A. It -- it did -- or we did, yes.

21 Q. What did -- what did you base that
22 request on?

23 A. It actually looks very similar to
24 the -- to the preceding update. So we -- I'll
25 read it for the benefit of the group.

1 "DEA requests closure of this
2 recommendation based upon DEA's actions to
3 obtain input from distributors and associations
4 representing distributors. DEA will continue
5 collaborating with these businesses and
6 associations through regularly scheduled
7 conferences and provide ongoing guidance to
8 distributors regarding their roles and
9 responsibilities for monitoring and reporting
10 suspicious orders."

11 Q. In addition to the efforts described
12 in Exhibit 9, it appears that, in the third
13 paragraph of Exhibit 10, beginning with "DEA
14 has continued to work with distributors," there
15 is the description of two additional
16 conferences in 2016; is that right?

17 A. Correct.

18 Q. Could you read that aloud for the
19 jury, please.

20 A. Sure.

21 "DEA has continued its work with
22 distributors and associations by meeting with
23 industry upon request and providing guidance
24 and discussion related to suspicious orders.
25 DEA held two distributors and one reverse

1 distributors conference in 2016. These
2 conferences provided DEA with an excellent
3 opportunity to engage its distributor
4 registrants, attachment 4, about their roles
5 and responsibilities for monitoring and
6 reporting suspicious orders. DEA plans to host
7 yearly training for distributors and reverse
8 distributors, which will answer questions on
9 these issues."

10 Q. I want to direct you to Table 21
11 that you discussed earlier in Exhibit 3. And
12 that is on page --

13 A. 66?

14 Q. -- 66 -- thank you -- of the report.

15 In your earlier testimony, I believe
16 you made the -- you clarified to say that the
17 GAO's recommendation, as you understood it, was
18 based on the response outlined in this table;
19 is that right?

20 A. Yes. And some -- and some of the --
21 the -- they had an open-ended question, and
22 then they had objective measures. And Table 21
23 was representing answers to objective measures
24 in their survey.

25 Q. And in Table 21, this reflects that

1 there were 77 total responses from
2 distributors; is that right?

3 A. Yes. I see one other thing that --
4 on this table representing distributors saying
5 that there may have been 78 responses. But
6 yes, 77 or 78 of the 200 that were -- that
7 received the opportunity to respond to their
8 survey.

9 Q. And you said a few moments ago that
10 there's between, now, 715 to 750 distributors.

11 Was that number different at the
12 time that this report was issued?

13 A. Yeah. The -- the number that's used
14 in the report is I believe 954. And I believe
15 the distinction there -- because I didn't go
16 back and look at where we were in 2014. But I
17 believe the difference is I'm talking about
18 controlled substance distributors.

19 We also have a population of
20 registrants that are involved in the
21 distribution of List I chemicals. So I'm
22 excluding the List I chemical population from
23 my numbers.

24 Q. Would the number -- what would the
25 number of controlled substances distributors

1 have been around the time that this report was
2 issued, if you know?

3 A. I think it would have been
4 comparable to what -- the numbers that we have
5 now. I don't think we've seen any drastic
6 changes in the size of our registrant
7 population for DEA-registered distributors.

8 Q. So directing your attention back to
9 Table 1.

10 Of those that responded to the
11 survey -- let's look at this first line here.

12 Here you see the 77 responses,
13 correct, is in respect to the DEA's Know Your
14 Customer guidance, right?

15 A. Yes.

16 Q. Okay. And what is the total number
17 of distributors that they said -- that thought
18 that the DEA's feedback was very or moderately
19 helpful?

20 A. So it's about two --

21 MS. MONAGHAN: Object to form.

22 THE WITNESS: It's approximately
23 two-thirds of the registrants that did respond
24 to this question indicated that they found
25 DEA's guidance to be very or moderately

1 helpful.

2 BY MS. ELLIS:

3 Q. A majority.

4 A. A majority, yes.

5 Q. And how many, according to this
6 chart, found that it was only slightly or not
7 helpful at all?

8 MR. MASTERS: Object to form.

9 MS. MONAGHAN: Object to form.

10 THE WITNESS: The number here is 28
11 of 77.

12 BY MS. ELLIS:

13 Q. I want to direct your attention to
14 Page 6 of Exhibit 3.

15 Earlier I believe you read for the
16 record the sentence starting the second
17 paragraph with "We also obtained documents
18 from"?

19 A. Yes.

20 Q. Were -- were you personally involved
21 in that process?

22 A. No.

23 Q. Are you -- and I believe you
24 testified that you're not aware of who at the
25 DEA was involved in that process?

1 A. That is correct. I'm not aware.

2 Q. Do you know what occurred during
3 that meeting as far as the feedback that was
4 solicited from the DEA by the GAO?

5 A. There were probably multiple
6 meetings. But I'm not familiar with what
7 transpired during each of those meetings.

8 Q. Do you know if the DEA had any
9 feedback into who would -- who the participants
10 in the survey would be?

11 MS. MONAGHAN: Object to form.

12 THE WITNESS: I have reason to
13 believe that the people who would have been
14 involved are no longer with the agency. So
15 I -- I don't really have a good way of trying
16 to reconcile that.

17 BY MS. ELLIS:

18 Q. So you don't know if the DEA had
19 input into who the participants in the survey
20 were?

21 A. Oh.

22 MS. MONAGHAN: Objection. Form.

23 THE WITNESS: I do believe we had
24 input as to who would be participating in those
25 meetings, yes.

1 BY MS. ELLIS:

2 Q. Do you know if the DEA had input
3 into what the survey questions would be?

4 A. No. We did not have access to the
5 questions.

6 Q. Do you know if the DEA had input
7 into which states would be selected for
8 participation in the survey?

9 MS. MONAGHAN: Object to form.

10 THE WITNESS: I don't know the
11 answer to that question.

12 BY MS. ELLIS:

13 Q. Do you know of anyone at the DEA
14 who -- who would know the answer to that
15 question besides you?

16 A. I believe the people who would know,
17 like I said previously, have since retired. So
18 I don't -- I don't know of anybody.

19 Q. Do you know when the DEA first
20 learned that the GAO was working on this
21 report?

22 A. Go back and see if I can find it in
23 the -- I'm sorry. I don't know the answer to
24 that question.

25 Q. Are you aware of whether the GA

1 [sic] solicited input from registrants into the
2 content of the survey?

3 MS. MONAGHAN: Object to form.

4 THE WITNESS: I don't know the
5 answer to that question, no.

6 BY MS. ELLIS:

7 Q. Would that surprise you?

8 MR. MASTERS: Objection.

9 THE WITNESS: Yes. That would
10 probably surprise me a little bit.

11 BY MS. ELLIS:

12 Q. Are you aware that the GAO solicited
13 input into this report and the survey as early
14 as July of 2013 --

15 MS. MONAGHAN: Object to form.

16 MR. MASTERS: Object to form.

17 BY MS. ELLIS:

18 Q. -- from registrants?

19 A. Can you repeat that.

20 Q. Are you aware that the GAO solicited
21 input into the survey and report from
22 registrants as early as July of 2013?

23 MS. WAITES: Objection. Foundation.

24 MR. MASTERS: Objection. Scope.
25 Objection. Form.

1 THE WITNESS: And the answer is no.

2 BY MS. ELLIS:

3 Q. Are you aware that in August of 2013
4 the GAO participated in a conference call with
5 the HDMA staff regarding this report?

6 MS. WAITES: Objection. Foundation.

7 MR. MASTERS: Objection. Scope.

8 Objection. Form.

9 THE WITNESS: No. I am not aware.

10 BY MS. ELLIS:

11 Q. What is the HDMA; do you know?

12 MS. WAITES: Objection. Scope.

13 MS. MONAGHAN: Objection. Scope and
14 form.

15 THE WITNESS: HDMA is now HDA. And
16 I believe they're the Healthcare Distributor
17 Alliance.

18 BY MS. ELLIS:

19 Q. Are you aware that this report by
20 the GEO -- GAO -- pardon me -- incorporated the
21 feedback from certain industry associations?

22 MS. WAITES: Objection. Foundation.

23 MS. MONAGHAN: Objection. Form and
24 foundation and scope.

25 MR. MASTERS: Objection. Vague.

1 THE WITNESS: Can -- can you repeat
2 that question.

3 BY MS. ELLIS:

4 Q. Yes. We'll just go to the document.
5 Let's go back to the summary page in
6 Exhibit 3. It's the second page of the
7 document.

8 The last sentence on the left-hand
9 side says: "The" GEO [sic] "administered
10 nationally representative web-based surveys to
11 DEA-registered distributors, individual
12 pharmacies, chain pharmacy corporate offices,
13 and practitioners. GAO also interviewed
14 officials from DEA, 26 national associations
15 and other nonprofits and 16 government agencies
16 in four states."

17 You see that.

18 A. Yes, I do.

19 Q. Are you aware of which associations
20 and nonprofits those were?

21 A. I believe they were listed as
22 potential -- oh, no, they weren't listed. No.
23 So I don't know which -- which associations.

24 Q. So you don't to know if the HDMA or
25 now called the HDA was one of the participants

1 in the study?

2 MS. MONAGHAN: Object to form and
3 foundation.

4 THE WITNESS: I don't know. But I
5 had reason to believe that they certainly would
6 have been one of the associations.

7 BY MS. ELLIS:

8 Q. Why is that?

9 MS. MONAGHAN: Object to form.

10 THE WITNESS: HDA represents
11 manufacturers and distributors of controlled
12 substances. They are obviously an important
13 association that we need to be working with.

14 And during my time as the head of
15 our congressional affairs section, I -- I knew
16 that they were on Capital Hill talking
17 extensively to members of congress about their
18 representatives' concerns over the amount of
19 communication that they had with DEA.

20 BY MS. ELLIS:

21 Q. You said they were on the hill
22 talking about their representatives' concern
23 over the amount of communication that they had
24 with the DEA.

25 What do you mean?

1 MS. MONAGHAN: Object to form.

2 Scope.

3 THE WITNESS: So HDMA, HDA is a --
4 is a lobbying firm that represents the
5 interests of -- of their clients on Capital
6 Hill. And they were very vocal. And they've
7 actually testified alongside DEA witnesses at
8 hearings in which these -- these issues were
9 brought up in terms of communication with the
10 agency.

11 BY MS. ELLIS:

12 Q. Do you understand that they've tried
13 to influence the way the DEA communicates with
14 registrants?

15 MR. MASTERS: Object to form.

16 Object to scope and foundation.

17 MS. WAITES: Object to scope and
18 foundation.

19 THE WITNESS: Yes.

20 (Deposition Exhibit 11 was marked
21 for identification.)

22 BY MS. ELLIS:

23 Q. I'm handing you, for the record,
24 what's been marked as Exhibit 11, Bates
25 numbered page MCKMMDL 00538072.

1 What is the subject line of the
2 e-mail that you have in front of you?

3 A. "Inquiry from Government
4 Accountability Office Regarding Distributor
5 Interaction With DEA."

6 Q. Could you read the first sentence of
7 the second paragraph, please.

8 A. "In August 2013, HDMA staff
9 participated in a conference call with the GAO
10 team tasked with pulling this report together.
11 During this" -- I'm sorry.

12 Did you say --

13 Q. You can go on.

14 A. "During this meeting, HDMA staff
15 gave a general overview of the industry's
16 efforts to prevent diversion." At that -- "At
17 the time we furnished them with testimony we
18 provided to the Energy and Commerce Committee
19 as well as the list of questions we had
20 submitted DEA seeking further clarity on
21 suspicious order monitoring and due diligence
22 protocols."

23 Q. The next paragraph starts with
24 "Specific follow-up questions from the" GE --
25 "GAO."

1 Could you read that, please, for the
2 jury.

3 A. "We are preparing the survey
4 questionnaire now and planning our sampling
5 methodology and have a couple of questions we'd
6 like your input on. A, if an individual
7 DEA-registered distributor location received
8 our survey, how likely would they be willing
9 and able to complete it? We have heard, for
10 example, that chain drug stores would likely
11 not want their individual stores to respond to
12 our survey. Instead they prefer (insist on)
13 sending one corporate response. B, do the
14 individually registered locations have direct
15 interaction with DEA and/or other federal
16 agencies; or is that more likely to happen at
17 the corporate level?"

18 Q. And who is on the To line of this
19 e-mail there at the top?

20 A. I see a representative from
21 AmerisourceBergen, a individual from Cardinal
22 Health, individual from Smith Drug, another
23 Cardinal Health individual, somebody from
24 Mutual Drug, somebody from HD Smith, somebody
25 from McKesson, and another individual from

1 AmerisourceBergen.

2 Q. Are the companies that you just
3 named, are you aware that those are registrants
4 of the DEA?

5 A. Yes.

6 MS. WAITES: Objection. Scope.

7 THE WITNESS: Yes.

8 BY MS. ELLIS:

9 Q. And who's the From line there on
10 that e-mail?

11 A. It is from Pat Kelly, who is with
12 HDA.

13 Q. And what's the date on that e-mail?

14 A. February 20th, 2014.

15 Q. Are you aware if the DEA was asked
16 for input on these questions around February
17 20th, 2014?

18 A. I am --

19 MS. MONAGHAN: Object to form.

20 THE WITNESS: I am not aware.

21 BY MS. ELLIS:

22 Q. Do you know if they were?

23 A. I don't know.

24 Q. You mentioned earlier what the DEA
25 probably would have a series of conversations

1 with the GA -- GAO about this survey and the
2 report, correct?

3 A. Yes.

4 Q. But you don't know when the dates of
5 those would have been?

6 A. No. And I -- I imagine that those
7 conversations would have been through the audit
8 liaison section, which would have not really
9 been part of my involvement at the time.

10 Q. Was the DEA invited to be at any of
11 the meetings where the GAO solicited input from
12 industry representatives?

13 MR. MASTERS: Objection.
14 Foundation.

15 THE WITNESS: I don't know.

16 BY MS. ELLIS:

17 Q. Was the G -- was the DEA privy to
18 the attendee list of any of the industry
19 representatives that were participants in these
20 meeting with the GAO?

21 MR. MASTERS: Objection. Form.
22 Foundation.

23 THE WITNESS: My understanding is
24 that DEA provided access to the CSA
25 registration database. And that's the basis by

1 which GAO decided what their generalizable
2 sample would be for purposes of administering
3 the survey.

4 BY MS. ELLIS:

5 Q. So the entire database?

6 A. Correct.

7 Q. Not necessarily -- that would not be
8 the specific list of who participated in the
9 discussions with the GAO, correct?

10 MS. MONAGHAN: Object to form.

11 THE WITNESS: I -- I don't know the
12 answer to that.

13 BY MS. ELLIS:

14 Q. Do you know who Rob Giacalone is?

15 A. No, I don't.

16 (Deposition Exhibit 12 was marked
17 for identification.)

18 BY MS. ELLIS:

19 Q. Handing you what's been marked for
20 the record as Exhibit 12.

21 Are you aware that the GAO held a
22 meeting with industry representatives,
23 including CSA, registrants in October of 2014?

24 MS. MONAGHAN: Object to form and
25 foundation.

1 THE WITNESS: I am not, no.

2 BY MS. ELLIS:

3 Q. Would you read the first two
4 sentences of the top of that e-mail for me,
5 please.

6 A. Starting with "I'll ask Carl"?

7 Q. Yes.

8 A. "I'll ask Carl. As to HDMA, here
9 are my thoughts."

10 Keep going.

11 Q. Yes, please.

12 A. Okay. "First, in my discussions
13 with HDMA, they have told me that they were
14 involved in helping to create the survey. So
15 I'm assuming they have already provided their
16 input to the GAO. Second, not sure if this
17 meeting at NASCSA is just for industry (and not
18 trade groups) given it's targeted specifically
19 towards industry representatives. I can ask
20 HDMA if they are going/got an invitation."

21 Keep going?

22 Q. Sure. Go ahead.

23 A. "Lastly, not sure we want Linden
24 there at this event if we're trying to keep a
25 low profile (and not sure he can go without

1 specifying for whom he is attending)."

2 Keep reading?

3 Q. Just go ahead and --

4 A. Okay.

5 Q. -- read the next two sentences.

6 A. "My overall concern with this is
7 that we got burned before with the GAO. And
8 I'm not sure how much we want to be perceived
9 as being on the front end with them. I think
10 we've worked towards coordinating a common
11 theme from our industry colleagues (via our
12 work groups, Purdue, et cetera. Just not sure
13 the downside of the potentially irritating DEA
14 is worth the added benefit of showing up at
15 this meeting where DEA reps most likely will be
16 present at the NASCSA meeting. If you think
17 other" -- "otherwise, let's decide who should
18 go. Thanks, Bob."

19 Q. Do you know if DEA reps were present
20 at that NASCSA meeting?

21 MS. WAITES: Objection. Scope.

22 MS. MONAGHAN: Objection.

23 Foundation and form.

24 THE WITNESS: I don't. I don't know
25 the answer.

1 BY MS. ELLIS:

2 Q. Do you know whether there was any
3 concerted effort by registrants to influence
4 the GAO's report?

5 MR. MASTERS: Objection. Form.
6 Foundation. Scope.

7 MS. WAITES: Objection. Calls for
8 speculation.

9 THE WITNESS: I don't know.

10 BY MS. ELLIS:

11 Q. I want to direct your attention to
12 Exhibit 8.

13 A. Was this -- was this part of Exhibit
14 12?

15 Q. It was.

16 A. Okay.

17 Q. It's an attachment to the e-mail.
18 Thank you.

19 You discussed this exhibit earlier
20 on the record.

21 Do you recall?

22 A. Yes.

23 Q. And what was -- what is this again?

24 A. This is a GAO summary. It's
25 available on their web site. And it talks

1 about the -- the summary of the GAO report and
2 then the status of recommendations. In this
3 case, for this particular report, there were
4 three recommendations. So below is the
5 recommendation -- the three recommendations and
6 their status.

7 Q. Recommendation 2, which we discussed
8 in depth today, was for the DEA to provide more
9 guidance to registrations -- or registrants and
10 associations representing registrants regarding
11 their roles and responsibilities for suspicious
12 order monitoring, correct?

13 A. Yes. Yes.

14 Q. Back on the first page.

15 (PHONE INTERRUPTION.)

16 MS. ELLIS: I think we have -- you
17 may want to mute your phone on the conference
18 line.

19 (DISCUSSION HELD OFF THE
20 STENOGRAPHIC RECORD.)

21 MS. ELLIS: Can we go off the record
22 for just one moment, please.

23 THE VIDEOGRAPHER: We are going off
24 the record.

25 This is the end of Media Unit No. 2.

1 The time is 11:43.

2 (A short recess was taken.)

3 THE VIDEOGRAPHER: We are going back
4 on the record.

5 This is the start of Media Unit No.
6 3.

7 The time is 11:44.

8 You may proceed, Counsel.

9 BY MS. ELLIS:

10 Q. We were just discussing Exhibit 8,
11 which is the GAO summary available on their web
12 site regarding the GAO report we've been
13 discussing today.

14 I would like to direct your
15 attention to midway through the first
16 paragraph. And there is a sentence there
17 starting with "Of those."

18 Do you see it?

19 A. Yes.

20 Q. Could you read that aloud, please.

21 A. "Of those registrants that have
22 interacted with DEA, most were generally
23 satisfied with those interactions. For
24 example, 92 percent of distributors that
25 communicated with DEA field office staff found

1 them 'very' or 'moderately' helpful. However,
2 some distributors, individual pharmacies and
3 chain pharmacy corporate office want improved
4 guidance from and additional communication with
5 DEA about their CSA roles and responsibilities.
6 For example, 36 of 55 distributors commented
7 that more communication or information from or
8 interactions with DEA would be helpful. DEA
9 officials indicated that they do not believe
10 there is a need for more registrant guidance or
11 communication."

12 Q. Do you understand that sentence to
13 be the support for the GAO's Recommendation 2
14 in that report?

15 A. The --

16 MR. MASTERS: Objection.

17 THE WITNESS: The 36 of 55?

18 MS. ELLIS: Yes.

19 THE WITNESS: I don't have a way of
20 knowing what GAO was thinking in terms of
21 crafting their recommendations. So I can't
22 answer your question.

23 BY MS. ELLIS:

24 Q. Let's look at the second paragraph.
25 If you could read that aloud, please.

1 A. "Officials GAO interviewed from 14
2 of 16 state government agencies and 24 of 26
3 national associations said they interact with
4 DEA through various methods. 13 of 14 state
5 agencies and 10 of 17 national associations
6 that commented about their satisfaction with
7 DEA interactions said they were generally
8 satisfied. However, some associations wanted
9 improved DEA communication."

10 Q. The next paragraph goes on to put a
11 number on that, quote, some associations,
12 doesn't it? The next sentence?

13 MS. WAITES: Object to form.

14 BY MS. ELLIS:

15 Q. Go ahead and read the next sentence
16 for the jury.

17 A. Okay.

18 "Because the additional
19 communication that four associations want
20 relates to their members' CSA roles and
21 responsibility, improved DEA communication with
22 and guidance for registrants may address some
23 of the associations concerns."

24 So yes to your question. Four is
25 the number.

1 Q. So is it your understanding that
2 Recommendation 2 was based, in part, on
3 feedback from four associations?

4 MS. WAITES: Objection. Calls for
5 speculation.

6 MS. MONAGHAN: Yeah. Objection.
7 Form. Foundation.

8 THE WITNESS: Yeah. Like I said, I
9 don't know what -- what specifically GAO was
10 thinking here. But it certainly seems
11 reasonable that -- that these concerns raised
12 by these associations may have informed their
13 decision making.

14 MS. ELLIS: I have no further
15 questions at this time.

16 THE VIDEOGRAPHER: We are going off
17 the record.

18 The time is 11:48.

19 (A short recess was taken.)

20 THE VIDEOGRAPHER: We are going back
21 on the record.

22 This is the start of Media Unit No.
23 3.

24 The time is 12:05.

25 You may proceed, Counsel.

1 MR. MASTERS: We only have a few
2 minutes. We'll be as brief as possible.

3 FURTHER EXAMINATION BY COUNSEL FOR CARDINAL
4 HEALTH

5 BY MR. MASTERS:

6 Q. Earlier today you were asked some
7 questions about HDA and HDMA?

8 A. Yes.

9 Q. Are you aware or have knowledge of
10 HDA or HDMA's membership structure?

11 MS. WAITES: Objection. Scope.

12 THE WITNESS: No.

13 BY MR. MASTERS:

14 Q. Are you aware of any of its missions
15 relating to and with respect to its
16 representative members?

17 MS. WAITES: Objection. Scope.

18 THE WITNESS: No.

19 BY MR. MASTERS:

20 Q. You don't have any -- any knowledge
21 about the activities that HDMA or HDA engages
22 in other than the work that you mentioned on
23 Capitol Hill?

24 MS. WAITES: Objection. Scope.

25 THE WITNESS: Correct.

1 BY MR. MASTERS:

2 Q. Earlier today, when the plaintiffs
3 were questioning you, you were shown a document
4 reflecting questions from the GAO. I -- I -- I
5 can't recall the exhibit.

6 A. 11?

7 Q. 11. Yes. That's it. Exhibit 11.

8 And you were directed to some
9 specific questions -- some specific follow-up
10 questions from the GAO.

11 Is that -- do you recall that?

12 A. Yes.

13 Q. Do these follow-up questions from
14 the GAO go to the substance of the survey
15 questions or to the process by which the survey
16 would be administered?

17 MS. WAITES: Objection. Vague.
18 Calls for speculation. Scope.

19 THE WITNESS: I -- I actually don't
20 know.

21 BY MR. MASTERS:

22 Q. Based on -- based on the plain
23 language, are -- is the -- is the GAO
24 requesting information about how to maximize
25 the responsiveness of the survey?

1 Is that -- would that be a fair way
2 to characterize what they're seeking here?

3 MS. WAITES: Objection. Calls for
4 speculation. Scope. Foundation.

5 THE WITNESS: Based on what I'm
6 reading in Question A, the only thing that
7 seems to maybe address your question is how
8 likely would they, who I -- I assuming are the
9 distributors, to be willing to or able to
10 complete the survey.

11 BY MR. MASTERS:

12 Q. Is there anything improper about the
13 GAO soliciting input on how to maximize the
14 responsiveness of their survey?

15 MS. WAITES: Objection. Calls for
16 speculation.

17 THE WITNESS: No. But I don't --
18 I'm not even certain that was -- that's called
19 into question is --

20 BY MR. MASTERS:

21 Q. You were also shown a document
22 reflecting a communication from DEA to GAO on
23 December 20th, 2016. I believe it was
24 Exhibit 10.

25 A. Yes.

1 Q. And on the second page of the
2 letter -- I'll just go ahead and show you
3 this -- this has some of my highlighting, but I
4 want to direct you to the -- the paragraph --
5 the second paragraph of DEA's response states
6 that: "The GAO survey was conducted in 2015
7 prior to new DEA leadership, including a new
8 acting administrator and new management for the
9 diversion control division. DEA's new
10 management met with industry leaders on
11 February 29th, 2016. Since then DEA has
12 continued to work with the industry and
13 improved communication on these issues."

14 Did I read that correctly?

15 A. Yes.

16 Q. In -- in the DEA's response to the
17 GAO and the DEA's status report to the GAO, why
18 did the DEA referenced [sic] new leadership and
19 new management?

20 A. So there was a -- a recognition that
21 in -- was it July of 2015 DEA got a new
22 administrator. That was shortly after the
23 former administrator, Michele Leonhart,
24 retired. And one of Acting Administrator
25 Rosenberg's first orders of business was to

1 work more in a collaborative fashion with our
2 registrant community.

3 And so, in -- in -- along that side,
4 he also decided to identify a new person that
5 would run the diversion control program. And
6 that resulted in the former head of diversion
7 retiring.

8 Q. And this introduction of new
9 management and new leadership in the DEA Office
10 of Diversion Control and at the DEA resulted in
11 improved communications on these issues, fair?

12 MS. WAITES: Objection.
13 Mischaracterizes prior testimony.

14 THE WITNESS: The February 29th,
15 2016 meeting was a listening session. So this
16 was our opportunity to basically hear from our
17 trade associations as to things that they
18 wanted to communicate with DEA about.

19 BY MR. MASTERS:

20 Q. And the DEA's new management felt
21 that that was a priority?

22 A. That was something we absolutely
23 wanted to do, yeah.

24 And I would say that, under the
25 leadership of Acting Administrator Rosenberg,

1 that was a priority, yes.

2 Q. You also mentioned the distributor
3 initiative as one of the ways in which the DEA
4 communicates in a one-on-one basis with
5 registrants, correct?

6 A. Yes.

7 Q. When was the last time that the DEA
8 held a distributor initiative briefing with
9 Cardinal Health?

10 MR. SMITH: Objection. Scope.

11 THE WITNESS: I don't know.

12 BY MR. MASTERS:

13 Q. When was the last time that the DEA
14 held a distributor initiative briefing with
15 AmerisourceBergen Drug Corporation?

16 MS. WAITES: Objection. Scope.

17 THE WITNESS: Same answer. I don't
18 know.

19 BY MR. MASTERS:

20 Q. When was the last time the DEA held
21 a distributor initiative -- initiative briefing
22 with McKesson?

23 MS. WAITES: Objection. Scope.

24 THE WITNESS: And I'll -- I'll
25 ask -- I don't know the answer.

1 But as a point of clarification, are
2 we talking about an individual McKesson
3 registration location, or are we talking about
4 the corporation at large, which would encompass
5 all their registrations?

6 BY MR. MASTERS:

7 Q. We're talking about the -- the
8 distributor initiative briefing.

9 A. Yeah. Because that's done at a --
10 at a registrant-specific location. So I don't
11 know the answer to your question.

12 But just as a point of
13 clarification, if -- if each of these
14 distributors have 20-plus distribution
15 locations, we wouldn't necessarily do the
16 distributor initiative with the corporation at
17 large; it would generally be done with each
18 individual location.

19 Q. Are you aware that distributor
20 initiative briefings with the corporation at
21 large were, in fact, held in 2005 with Cardinal
22 Health, AmerisourceBergen and McKesson?

23 MS. WAITES: Objection. Foundation.
24 Scope.

25 And after this, we're going to stop

1 questions, both because you're out of time,
2 this is someone else's topic, and we said that
3 we are not going to talk about individual
4 meetings with distributors.

5 So --

6 MR. MASTERS: My --

7 MS. WAITES: If you have another
8 wrap-up question or two, I'll allow it. But
9 we're not going to continue with this line of
10 questioning.

11 MR. MASTERS: My understanding from
12 the authorization on this topic that -- that
13 the witness would be off -- prepared to talk
14 about the foundation -- or the basis of the
15 DEA's response to the GAO in its draft --
16 when -- when it provided the draft report.

17 And one of the responses that the GA
18 -- that the DEA gave in its report was, in
19 emphasizing the communication, they referenced
20 the distributor initiative briefings that began
21 in 2005. And I'm simply probing the basis
22 for -- for that statement.

23 MS. WAITES: We've been very clear
24 that these depositions are not going to cover
25 specific individual meetings. And if you

1 wanted to cover that, the appropriate person
2 would have been -- would have been Mr.
3 Provosnik.

4 So this line of questioning is
5 certainly not appropriate for Mr. Strait. If
6 you have another question regarding the GAO
7 report, I'm fine with that. But you're also
8 out of time.

9 BY MR. MASTERS:

10 Q. One final question: Counsel for
11 plaintiffs at -- at Exhibit 9, I believe it
12 was, reviewed a status report from April 27th,
13 2016, in which the DEA listed a number of
14 communications that it -- or a number of
15 efforts that it took to comply with the GAO's
16 recommendation.

17 And I just want to confirm for the
18 record that the GAO, in response to this
19 letter, did not close the recommendation,
20 correct?

21 A. They did not close the
22 recommendation despite our request that they do
23 so.

24 Q. And in -- and in June of 2016, the
25 GAO stated that additional written guidance is

1 still -- has still not occurred and is -- and
2 is needed in order to satisfy and close the
3 recommendation, correct?

4 MS. WAITES: Objection. Misstates
5 the document.

6 THE WITNESS: I would just refer you
7 to the -- the plain language in -- in Exhibit
8 8, which talks about the status as indicated by
9 GAO on their web site. And I can read that if
10 you'd like.

11 BY MR. MASTERS:

12 Q. Which -- which is still open,
13 correct?

14 A. It is still open, yes.

15 MR. MASTERS: No further questions.
16 Thank you.

17 THE VIDEOGRAPHER: We are going off
18 the record.

19 The time is 12:15.

20 (Discussion held off the record.)

21 THE VIDEOGRAPHER: We are back on
22 the record.

23 The time is 12:16.

24 We are off the record at 12:16 p.m.

25 And this concludes today's testimony

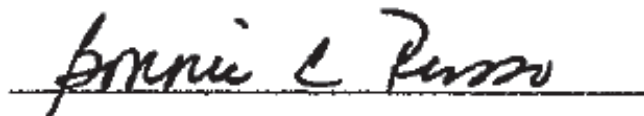
1 given by Matthew Strait.

2 The total number of media units used
3 was three and will be retained by Veritext
4 Legal Solutions.

5 (Whereupon, the proceeding was
6 concluded at 12:16 p.m.)
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CERTIFICATE OF NOTARY PUBLIC

I, Bonnie L. Russo, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken by me in shorthand and thereafter reduced to computerized transcription under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of the action.

A handwritten signature in dark ink, reading "Bonnie L. Russo", is written over a horizontal line.

Notary Public in and for
the District of Columbia

My Commission expires: June 30, 2020

Veritext Legal Solutions
1100 Superior Ave
Suite 1820
Cleveland, Ohio 44114
Phone: 216-523-1313

June 5, 2019

To: Natalie A. Waites

Case Name: In Re: National Prescription Opiate Litigation v.

Veritext Reference Number: 3404564

Witness: Matthew Strait Deposition Date: 5/31/2019

Dear Sir/Madam:

Enclosed please find a deposition transcript. Please have the witness review the transcript and note any changes or corrections on the included errata sheet, indicating the page, line number, change, and the reason for the change. Have the witness' signature notarized and forward the completed page(s) back to us at the Production address shown above, or email to production-midwest@veritext.com.

If the errata is not returned within thirty days of your receipt of this letter, the reading and signing will be deemed waived.

Sincerely,
Production Department

NO NOTARY REQUIRED IN CA

DEPOSITION REVIEW
CERTIFICATION OF WITNESS

ASSIGNMENT REFERENCE NO: 3404564

CASE NAME: In Re: National Prescription Opiate Litigation v.

DATE OF DEPOSITION: 5/31/2019

WITNESS' NAME: Matthew Strait

In accordance with the Rules of Civil
Procedure, I have read the entire transcript of
my testimony or it has been read to me.

I have made no changes to the testimony
as transcribed by the court reporter.

Date Matthew Strait

Sworn to and subscribed before me, a
Notary Public in and for the State and County,
the referenced witness did personally appear
and acknowledge that:

They have read the transcript;
They signed the foregoing Sworn
Statement; and
Their execution of this Statement is of
their free act and deed.

I have affixed my name and official seal

this _____ day of _____, 20____.

Notary Public

Commission Expiration Date

DEPOSITION REVIEW
CERTIFICATION OF WITNESS

ASSIGNMENT REFERENCE NO: 3404564

CASE NAME: In Re: National Prescription Opiate Litigation v.

DATE OF DEPOSITION: 5/31/2019

WITNESS' NAME: Matthew Strait

In accordance with the Rules of Civil Procedure, I have read the entire transcript of my testimony or it has been read to me.

I have listed my changes on the attached Errata Sheet, listing page and line numbers as well as the reason(s) for the change(s).

I request that these changes be entered as part of the record of my testimony.

I have executed the Errata Sheet, as well as this Certificate, and request and authorize that both be appended to the transcript of my testimony and be incorporated therein.

Date

Matthew Strait

Sworn to and subscribed before me, a Notary Public in and for the State and County, the referenced witness did personally appear and acknowledge that:

They have read the transcript;
They have listed all of their corrections in the appended Errata Sheet;
They signed the foregoing Sworn Statement; and
Their execution of this Statement is of their free act and deed.

I have affixed my name and official seal
this _____ day of _____, 20____.

Notary Public

Commission Expiration Date

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ERRATA SHEET
VERITEXT LEGAL SOLUTIONS MIDWEST
ASSIGNMENT NO: 3404564

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_____ Matthew Strait
Date
SUBSCRIBED AND SWORN TO BEFORE ME THIS _____
DAY OF _____, 20____.

Notary Public

Commission Expiration Date

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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